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MONTANA LEGISLATIVE HISTORY

Chapter 491 Session L 73
Bill House _____ Senate 23

History and final status sheet NA
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Fiscal note NA
Third reading bill X
Final version of bill x

House Committee on Judiciary

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2/26

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Comm. Report _____

Floor 2nd reading & vote 3/1

Floor 3rd reading & vote 3/2; 3/3

Senate Committee on Judiciary

Hearing date(s)* 1/3 1/16
1/15

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Comm. Report _____

Floor 2nd reading & vote 1/22

Floor 3rd reading & vote 1/25

Conference or Free Conference Comm. x Yes _____ No

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Executive action (vote) date(s)* 3/5; 3/19

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? _____ Yes x No

Committee _____ Report _____

NOTES: There are no minutes for House Judiciary 2/19/73.

This bill was also heard during Special Session March 16-22, 1973.



Compiled by: rg

Date: 2-21-20

IMPLEMENTING THE 1972 CONSTITUTION

SENATE BILL NO. 23

INTRODUCED BY Jim Moore and Neil J. Lynch (by request)

11-727, 16-2403, 16-2404, 16-2406, 25-303, 25-305 THROUGH
25-307, 93-401 THROUGH 93-403, 93-405, 93-704, 93-1602,
93-6601, 93-6602, 93-6706, 93-6903, 93-7302, 93-7311,
93-7402, 93-7605, 93-7607, 93-7704, 93-7709, 93-9705

9 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
10 MINIMUM NUMBER OF JUSTICES OF THE PEACE, THEIR COMPENSATION,
11 QUALIFICATIONS, TERMS OF OFFICE, TRAINING AND DESIGNATION AS
12 COUNTY OFFICERS; PROVIDING FOR THE COLLECTION OF FEES BY
13 JUSTICES AND IMPROVEMENT OF THEIR FACILITIES; ABOLISHING
14 FEES IN CRIMINAL ACTIONS; AND DELETING REFERENCES TO
15 TOWNSHIPS; ALL TO COMPLY WITH ARTICLE VII, SECTIONS 5 AND 7
16 OF THE 1972 MONTANA CONSTITUTION; AMENDING SECTIONS 11-727,
17 16-2403, 16-2404, 16-2406, 25-307, 93-401 THROUGH 93-403,
18 93-405, 93-704, 93-1602, 93-6601, 93-6602, 93-6706,
19 93-6903, 93-7302, 93-7311, 93-7402, 93-7605, 93-7607,
20 93-7704, 93-7709, 93-9705, R.C.M. 1947; AND REPEALING
21 SECTIONS 25-303, 25-305 AND 25-306, R.C.M. 1947."

23 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF
24 MONTANA:

25 Section 1. The board of county commissioners shall set

1 salaries for justices of the peace by resolution, provided
2 that:

3 (1) if the salary of the justice of the peace was
4 determined on a fee basis for the years 1971 and 1972, he
5 shall receive a monthly salary of not less than
6 one-eighteenth of the total fees, civil and criminal,
7 collected by the justice or his predecessor in office during
8 the two (2) years, 1971 and 1972;

9 (2) if the salary of the justice of the peace was
10 determined on a non-fee basis for the years 1971 and 1972,
11 the justice shall be paid not less than the highest salary
12 earned by the justice or his predecessor for the years 1971
13 and 1972.

14 Section 2. In the resolution providing for the salary
15 the county commissioners shall designate the office hours
16 for each justice. Office hours shall be commensurate with
17 the salary provided.

18 Section 3. (1) The board of county commissioners of
19 the county in which the justice of the peace has been
20 elected or appointed shall provide for the justices of the
21 peace:

22 (a) the office, courtroom and clerical assistance
23 necessary to enable him to perform his duties in dignified
24 surroundings;

25 (b) the books, records, forms, papers, stationery,

1 postage, office equipment and supplies necessary in the
2 proper keeping of the records and files of the judicial
3 office and the transaction of the business;

4 (c) the latest edition of the Revised Codes of
5 Montana and all official supplements thereto.

6 (2) All actual and necessary expenses incurred by the
7 justice of the peace in the performance of his official
8 duties is a legal charge against the county.

9 Section 4. Section 93-401, R.C.M. 1947, is amended to
10 read as follows:

11 "93-401. Justices' courts and justices. (1) There must
12 be at least ~~two-justices~~¹-courts one (1) justice court in
13 each ~~of--the--organized townships~~ county of the state, for
14 which ~~two-justices~~ one (1) justice of the peace must be
15 elected by the qualified electors of the ~~township~~ county at
16 the general state election next preceding the expiration of
17 the term of office of his predecessor."

18 (2) A justice of the peace shall be nominated and
19 elected on the non-partisan judicial ballot in the same
20 manner as are judges of the district court. Each judicial
21 office shall be a separate and independent office for
22 election purposes and each office shall be numbered by the
23 county commissioners and each candidate for justice of the
24 peace shall specify the number of the office for which he
25 seeks to be elected. A candidate may not file for more than

1 one (1) office. Section 23-4511 prohibiting political party
2 endorsement for judicial officers shall also apply to
3 justices of the peace.

4 (3) Each justice of the peace, elected or appointed,
5 after he has received his certificate of election or
6 appointment, shall, before entering upon the duties of his
7 office take the constitutional oath of office, which must be
8 filed with the county clerk.

9 (4) Before the county clerk may file the oath the
10 elected or appointed justice must satisfy the clerk that he
11 is either:

12 (a) an attorney at law authorized to practice law in
13 the state of Montana, or

14 (b) a person who has held the office of justice of
15 the peace within the preceding five (5) years, or

16 (c) a person who has completed the orientation course
17 of study held under the direction of the Montana Magistrates
18 Association of the state of Montana; or if a person is
19 appointed after the course is offered he must agree to take
20 the course at the next offering and failure to do so will
21 disqualify him.

22 (5) The Montana Magistrates Association shall present
23 a course of study within four (4) weeks following each
24 general election. Mileage and per diem shall be paid the
25 elected or appointed justice of the peace for attending the

1 course and shall be a proper charge against the county
2 wherein the justice of the peace will hold court."

3 Section 5. Section 11-727, R.C.M. 1947, is amended to
4 read as follows:

5 "11-727. Compensation of justices of the peace acting
6 as police judge. In towns, the council may designate a
7 justice of the peace of the ~~township~~ county in which the
8 town is situated to act as police judge, and may by
9 ordinance fix his compensation for his services, not
10 exceeding one hundred dollars per annum, and the justices of
11 the peace so designated must act as a police judge in all
12 cases arising out of a violation of ordinances where the
13 town is a party."

14 Section 6. Section 93-402, R.C.M. 1947, is amended to
15 read as follows:

16 "93-402. Courts--where held--when open for business.
17 A justice's court may be held at any place selected by the
18 justice holding the same, in the ~~township~~ county for which
19 he is elected or appointed; and such court is always open
20 for the transaction of business, except on legal holidays
21 and non-judicial days, ~~provided, that said justice may hold~~
22 ~~court beyond the limits of his township as provided in~~
23 ~~section 93-402."~~

24 Section 7. Section 93-403, R.C.M. 1947, is amended to
25 read as follows:

1 "93-403. Holding court for another justice with
 2 county holding--court--outside-township-in-criminal-case-to
 3 save-expense. A justice of the peace of any township county
 4 may hold the court of any other justice of the peace of the
 5 same county at his request, and while so acting is vested
 6 with the power of the justice for whom he so holds court, in
 7 which case the proper entry of the proceedings before the
 8 attending justice, subscribed by him, must be made in the
 9 docket of the justice for whom he so holds the court,
 10 provided, further, that whenever it shall appear to said
 11 justice that, in any criminal case because of the distance
 12 and number of witnesses involved, it would effect a
 13 substantial saving to hold court in a township beyond the
 14 limits of his township, he shall issue his certificate of
 15 necessity therefor and notify the justice or justices of
 16 said township wherein said court is to be held, and shall
 17 enter said order on his docket. In such an event the said
 18 justice shall have full and complete jurisdiction to hold
 19 said court in said designated township. The actual
 20 traveling expenses of said justice in holding court outside
 21 the confines of his township shall be a proper charge
 22 against the county."

23 Section 8. Section 93-405, R.C.M. 1947, is amended to
 24 read as follows:

25 "93-405. Terms of office. The term of office of

1 justices of peace is ~~two~~ four (4) years from the first
2 Monday in January next succeeding their election."

3 Section 9. Section 25-307, R.C.M. 1947, is amended to
4 read as follows:

5 "25-307. Collection and disposition of fees ~~in~~
6 ~~townships-of-ten-thousand-and--upwards--~~itemized statement.
7 Justices of the peace ~~in-townships-having-a-population-of~~
8 ~~ten-thousand-people--and--upwards~~ shall collect the fees
9 prescribed by law for justices of the peace~~7-except-the-fees~~
10 ~~in--criminal--actions--other-than-for-the-issuance-of-search~~
11 ~~warrants7~~ and shall pay the same into the county treasury of
12 the county wherein they hold ~~such~~ office, on the first day
13 of each month, to be credited to the contingent fund of ~~such~~
14 the county; and shall also file ~~therewith~~ an itemized
15 statement showing all fees received during the preceding
16 month in connection with his office; said statement shall
17 also state that all fees required by law to be paid in
18 connection with matters pending before him as ~~such~~ a justice
19 during the preceding month have been paid to him, and by him
20 paid into the county treasury, and listed in said itemized
21 statement, and that he has not received or been promised,
22 nor has any one else received or been promised for him, any
23 other moneys, emolument, or thing whatsoever by virtue of or
24 in connection with his office; and said statement shall be
25 subscribed and sworn to by the justice. This section,

1 however, shall not apply to "miscellaneous fees" excepted by
2 section 25-304, supra."

3 Section 10. Section 16-2404, R.C.M. 1947, is amended
4 to read as follows:

5 "16-2404. Township officers. The officers of townships
6 are ~~two--justices--of--the--peace~~, two constables, and such
7 other inferior and subordinate officers as are provided for
8 elsewhere in this code, or by the board of county
9 commissioners."

10 Section 11. Section 16-2403, R.C.M. 1947, is amended
11 to read as follows:

12 "16-2403. County officers enumerated. The officers of
13 a county are:

14 A treasurer;

15 A county clerk;

16 A clerk of the district court;

17 A sheriff;

18 A county auditor, except in the sixth, seventh, and
19 eighth class counties;

20 A county attorney;

21 A surveyor;

22 A coroner;

23 A public administrator;

24 An assessor;

25 A county superintendent of common schools;

1 A board of county commissioners; i

2 At least one (1) justice of the peace."

3 Section 12. Section 16-2406, R.C.M. 1947, is amended
4 to read as follows:

5 "16-2406. County and other officers, when elected and
6 term of office. There shall be elected in each county the
7 following county officers who shall possess the
8 qualifications for suffrage prescribed by the constitution
9 of the state of Montana, and such other qualifications as
10 may be prescribed by law:

11 One county clerk who shall be clerk of the board of
12 county commissioners and ex officio recorder; one sheriff;
13 one treasurer, who shall be collector of the taxes;
14 provided, that the county treasurer shall not be eligible to
15 his office for the succeeding term; one county
16 superintendent of schools; one county surveyor; one
17 assessor; one coroner; one public administrator; and at
18 least one (1) justice of the peace. Persons elected to the
19 different offices named in this section shall hold their
20 respective offices for the term of four (4) years, and until
21 their successors are elected and qualified.

22 The county attorneys, county auditors, and all elective
23 township officers, must be elected at each general election
24 as now provided by law. The officers mentioned in this act
25 must take office on the first Monday of January next

1 succeeding their election, except the county treasurer,
2 whose term begins on the first Monday of March next
3 succeeding his election.

4 Vacancies in all county, township and precinct offices,
5 except that of county commissioners, shall be filled by
6 appointment by the board of county commissioners, and the
7 appointee shall hold his office until the next general
8 election; provided, however, that the board of county
9 commissioners of any county may, in its discretion,
10 consolidate any two or more of the within named offices and
11 combine the powers and the duties of the said offices
12 consolidated; however, the provisions hereof shall not be
13 construed as allowing one (1) office incumbent to be
14 entitled to the salaries and emoluments of two (2) or more
15 offices; provided, further, that in consolidating county
16 offices, the board of county commissioners shall, six (6)
17 months prior to the general election held for the purpose of
18 electing the aforesaid officers, make and enter an order,
19 combining any two (2) or more of the within named offices,
20 and shall cause the said order to be published in a
21 newspaper, published and circulated generally in said
22 county, for a period of six (6) weeks next following the
23 date of entry of said order."

24 Section 13. Section 93-704, R.C.M. 1947, is amended to
25 read as follows:

1 "93-704. Residence and qualifications of justices of
2 the peace. Every justice of the peace must reside in the
3 township county in which his court is held, and no person is
4 eligible to the office of justice of the peace unless he
5 shall have been a citizen of the United States and a
6 resident of the county, in which he is to serve, for one
7 year next preceding his election or appointment."

8 Section 14. Section 93-1602, R.C.M. 1947, is amended
9 to read as follows:

10 "93-1602. How to be summoned. Such jurors must be
11 summoned from the persons competent to serve as jurors,
12 residents of the township county, city, or town in which
13 such court has jurisdiction, by notifying them orally that
14 they are summoned, and of the time and place at which their
15 attendance is required."

16 Section 15. Section 93-6601, R.C.M. 1947, is amended
17 to read as follows:

18 "93-6601. Where actions must be commenced. Actions in
19 justices' courts may be commenced, and, subject to the right
20 to change the place of trial, as in this chapter provided,
21 may be tried:

22 1. When the defendant, or all the defendants, if there
23 be more than one, reside in another county than that in
24 which the right of action accrues, and the action be for the
25 recovery of personal property, or the value thereof, or

1 damages for taking or detaining the same; in ~~any-township-of~~
2 the county in which the property, or any part thereof, may
3 be found, or in which the property, or any part thereof, was
4 taken, or in which the defendant or either of the defendants
5 reside;

6 2. When the defendant, or all of the defendants, if
7 there be more than one, reside in another county than that
8 in which the right of action accrues, and the action be for
9 damages for violation of an express or implied contract, or
10 for money due on an express or implied contract, debt, note,
11 or account; in ~~any-township-of~~ the county in which such
12 contract or obligation is to be or was to have been
13 performed, or such money is to be or was to have been paid,
14 or in which the defendant or either of the defendants
15 resides; and the county in which the obligation is incurred
16 shall be deemed to be the county in which it is to be
17 performed or paid, unless there is a special contract to the
18 contrary;

19 3. When the defendant, or all of the defendants, if
20 there be more than one, reside in another county than that
21 in which the right of action accrues, and the action be for
22 damages for injury to person, property, or reputation; in
23 ~~any-township-of~~ the county where the injury was committed,
24 or in which the defendant or either of the defendants
25 reside;

1 4. When the defendant is a nonresident of the county;
2 in ~~any--township--of~~ any county where he may be found and
3 served with summons personally;

4 5. When the defendant is a nonresident of the state;
5 in any ~~township~~ county of the state;

6 6. When the parties voluntarily appear and plead,
7 without summons; in any ~~township~~ county of the state;

8 7. In all other cases; in any ~~township-of--the~~ county
9 in which the defendant, or any one of the defendants, if
10 there be more than one, reside, or may be found and served
11 with summons personally."

12 Section 16. Section 93-6602, R.C.M. 1947, is amended
13 to read as follows:

14 "93-6602. Place of trial may be changed in certain
15 cases. The court may, at any time before trial, on motion,
16 change the place of trial in the following cases:

17 1. When it appears to the satisfaction of the justice
18 before whom the action is pending, by affidavit of either
19 party, that such justice is a material witness for either
20 party.

21 2. When either party makes and files an affidavit that
22 he cannot have a fair and impartial trial before such
23 justice, by reason of the interest, prejudice, or bias of
24 the justice.

25 3. When a jury has been demanded, and either party

1 makes and files an affidavit that he cannot have a fair and
2 impartial trial, on account of the bias or prejudice of the
3 citizens of the ~~township~~ county, town, or city against him.

4 4. When, from any cause, the justice is disqualified
5 from acting.

6 5. When the justice is sick or unable to act."

7 Section 17. Section 93-6706, R.C.M. 1947, is amended
8 to read as follows:

9 "93-6706. Summons--how issued, directed and what to
10 contain. The summons must be directed to the defendant and
11 signed by the justice, and must contain:

12 1. The title of the court, the name of the county and
13 city ~~or-township~~ in which the action is commenced, and the
14 names of the parties thereto;

15 2. A sufficient statement of the cause of action, in
16 general terms, to apprise the defendant of the nature of the
17 claim against him, but a copy of the complaint in the action
18 when served with the copy of the summons upon defendant in
19 lieu of said statement, is sufficient;

20 3. A direction that the defendant appear and answer
21 before the justice, at his office, as specified in the next
22 section. And that if he fail to appear and answer, judgment
23 will be taken against him according to the complaint."

24 Section 18. Section 93-6903, R.C.M. 1947, is amended
25 to read as follows:

1 "93-6903. A defendant arrested must be taken before
2 the justice immediately. The defendant, immediately upon
3 being arrested, must be taken to the office of the justice
4 who made the order, and if he is absent or unable to try the
5 action, or if it appears to him by the affidavit of
6 defendant that he is a material witness in the action, the
7 officer must immediately take the defendant before another
8 justice of the ~~town, township, or city~~ county, if there is
9 another, and if not, then before a justice of an adjoining
10 township county, who must take jurisdiction of the action,
11 and proceed thereon as if the summons had been issued and
12 the order of arrest made by him."

13 Section 19. Section 93-7302, R.C.M. 1947, is amended
14 to read as follows:

15 "93-7302. Judgment of dismissal entered in certain
16 cases without prejudice. Judgment that the action be
17 dismissed without prejudice to a new action, may be entered
18 with costs in the following cases:

19 1. When the plaintiff voluntarily dismisses the
20 action, at or before the close of his evidence, when there
21 is no counterclaim.

22 2. When he fails to appear at any time within five
23 days after default has been entered, or at the time to which
24 the action has been postponed.

25 3. When, after a demurrer to the complaint has been

1 sustained, the plaintiff fails to amend it within the time
2 allowed by the court.

3 4. When it is objected at the trial, and appears by
4 the evidence, that the action is brought in the wrong
5 county,--~~or-township~~,--~~town~~,--~~or-city~~; but if the objection is
6 taken and overruled, it is the cause of a reversal on
7 appeal, and does not otherwise invalidate the judgment; if
8 not taken at the trial, it is waived."

9 Section 20. Section 93-7311, R.C.M. 1947, is amended
10 to read as follows:

11 "93-7311. Abstract of judgment. The justice, on the
12 demand of a party in whose favor judgment is rendered, must
13 give him an abstract of the judgment in substantially the
14 following form (filling blanks according to the facts):

15 "State of Montana

16 County of

17 , plaintiff, v., defendant.

18 In justice's court, before, justice of the peace,
19 township ~~(city-or-town)~~ county,, 19.. (inserting
20 date of abstract). Judgment entered for plaintiff (or
21 defendant) for \$....., on the day of I certify
22 that the foregoing is a correct abstract of a judgment
23 rendered in said action in my court, or (as the case may be)
24 in the court of, justice of the peace, as it appears by
25 his docket, now in my possession, as his successor in

1 office.

2 Justice of
3 the Peace."

4 Section 21. Section 93-7402, R.C.M. 1947, is amended
5 to read as follows:

6 "93-7402. Form of execution. The execution must be
7 directed to the sheriff or to a constable of the county, and
8 must be subscribed by the justice and bear date the day of
9 its issuance. It must intelligibly refer to the judgment,
10 by stating the names of the parties, and the name of the
11 justice before whom, and of the county ~~and-the-township,~~
12 ~~town,-or-city~~ where, and the time when, it was rendered; the
13 amount of the judgment, if it be for money; and if less than
14 the whole is due, the true amount due thereon. It must
15 contain, in like cases, similar directions to the sheriff or
16 constable as are required by the provisions of sections
17 93-5801 to 93-5845, in an execution to the sheriff, except
18 that it shall not direct the officer to in any manner levy
19 upon or satisfy the judgment, or any interest thereon, from
20 any real property."

21 Section 22. Section 93-7605, R.C.M. 1947, is amended
22 to read as follows:

23 "93-7605. Proceedings when office becomes vacant and
24 before a successor is appointed. If the office of a justice
25 become vacant by his death or removal from the ~~township,~~

1 ~~town, or city~~ county, or otherwise, before his successor is
2 elected and qualified, the docket and papers in possession
3 of such justice must be deposited in the office of some
4 other justice in the ~~township~~ county, to be by him delivered
5 to the successor of such justice. If there is no other
6 justice in the ~~township~~ county, then the docket and papers
7 of such justice must be deposited in the office of the
8 county clerk, to be by him delivered to the successor in
9 office of the justice."

10 Section 23. Section 93-7607, R.C.M. 1947, is amended
11 to read as follows:

12 "93-7607. Justice elected to fill vacancy. The justice
13 elected to fill a vacancy is the successor of the justice
14 whose office became vacant before the expiration of a full
15 term. When a full term expires, the same or another person
16 elected to take office in the same ~~township, town, or city~~
17 county from that time is the successor."

18 Section 24. Section 93-7704, R.C.M. 1947, is amended
19 to read as follows:

20 "93-7704. In case of disability of justice, another
21 justice may attend on his behalf. In case of the sickness or
22 other disability, or necessary absence of a justice, on a
23 return of a summons, or at the time appointed for a trial,
24 another justice of the same ~~township, town, or city~~ county,
25 or adjoining ~~township~~ county may, at his request, attend in

1 his behalf, and thereupon is vested with the power, for the
2 time being, of the justice before whom the summons was
3 returnable. In that case, the proper entry of the
4 proceedings before the attending justice, subscribed by him,
5 must be made in the docket of the justice before whom the
6 summons was returnable. If the case is adjourned, the
7 justice before whom the summons was returnable may resume
8 jurisdiction."

9 Section 25. Section 93-7709, R.C.M. 1947, is amended
10 to read as follows:

11 "93-7709. Special constables--appointment. If in any
12 township there should be no duly elected, appointed, or
13 qualified constable, but not otherwise, a justice of the
14 peace in ~~such township~~ the county may, at the request of a
15 party, after being satisfied that it is expedient to do so,
16 specially depute any proper person of suitable age not
17 interested in the action to serve a summons, with or without
18 an order to arrest the defendant, or with or without a writ
19 of attachment, or to serve an execution. The justice shall
20 be liable upon his official bond for all official acts of
21 the person so deputed. Such deputation shall be in writing
22 made on the process, and a note thereof made on the
23 justice's docket."

24 Section 26. Section 93-9705, R.C.M. 1947, is amended
25 to read as follows:

1 "93-9705. What courts have jurisdiction. The district
2 court of the county in which the property, or some part of
3 it, is situated, shall have jurisdiction of proceedings
4 under this chapter; provided, that justices' courts, within
5 their respective ~~towns, townships, or cities~~ counties, shall
6 have concurrent jurisdiction."

7 Section 27. Sections 25-303, 25-305, and 25-306,
8 R.C.M. 1947, are repealed.

-End-

JUDICIARY

[illegible]

Judiciary COMMITTEE
43rd LEGISLATIVE SESSION 1973

23

SENATE JUDICIARY COMMITTEE MEETING---January 3, 1973

The meeting was called to order by the Chairman, Senator McKeon. All members were present with the exception of Senator Gilfeather who was ill.

The committee discussed several bills:

- SJR No. 1--Senator Harrison moved that the bill do pass. Senator Drake seconded the motion and the committee voted unanimously to recommend the bill DO PASS.
- SJR No. 2--Senator Drake moved that the bill do pass. Sen. Boylan seconded the motion and the committee voted unanimously to recommend the bill DO PASS.
- SJR No. 3--Sen. Harrison moved that the bill be amended by striking lines 5, 6, and 7 on Page 3. The motion was seconded by Sen. Hall and the committee voted unanimously to amend the bill. Sen. Harrison moved that the bill do pass as amended and the motion was seconded by Sen. Hall. The committee unanimously voted the bill DO PASS AS AMENDED.
- SJR No. 4--Sen. Harrison moved that the bill do pass. Sen. Zody seconded the motion; and the committee unanimously recommended DO PASS.
- SB No. 3--Sen. Drake moved the bill do pass. Sen. Harrison seconded the motion; and the committee unanimously recommended the bill DO PASS.
- SB No. 4--Sen. Drake moved the bill do pass. Sen. Harrison seconded the motion. The committee unanimously recommended do pass. Senator Turnage moved that this bill be reconsidered for amendments. Sen. Moore seconded. The committee unanimously voted to reconsider. Sen. Turnage moved that the bill be amended on Page 2, Line 7 by striking the words "default of appearance or by" after the word "upon" and before the word "written" so that this section will read "Upon written consent of the parties..." Moore seconded this motion and the committee voted unanimously in favor of it. Sen. Turnage moved this bill do pass as amended; Sen. Moore seconded the motion; the committee unanimously agreed that the bill DO PASS AS AMENDED.
- SB No. 6--The chairman decided to hold this bill back so that further study could be done. Sen. Harrison felt implementation of the bill should go into effect before July 2.
- SB No. 8--The committee decided to contact Roger Hazell of the Legislative Council staff to help discuss the bill.
- SB No. 19--Sen. Harrison moved the bill do pass; Sen. Drake seconded the motion; the committee unanimously voted in favor of the motion that the bill DO PASS.
- SB No. 22--Sen. Harrison moved the bill do pass; Sen. Hall seconded the motion; the committee voted unanimously the bill DO PASS.

January 3, 1973 (continued)

SB No. 23--The committee decided to study this bill further before taking any action.

SB No. 26,
27,
28,

and 29--The Chairman moved to place these bills into a subcommittee with Senator Turnage appointed as Chairman. Senator Drake and Senator Hall will be on the subcommittee also.

SB 31 and

32--The Chairman moved that these bills be placed under the above mentioned subcommittee headed by Senator Turnage.

SB No. 34--Senator Turnage motioned that this bill do pass; Senator Hall seconded; and the committee unanimously voted to favor the motion.

Kyle Jackson

~~Kyle Carlson~~ will be the researcher for the committee and will be available to work for all its members.

The meeting was adjourned.



Senator Luke McKeon, Chairman

SENATE JUDICIARY COMMITTEE---January 15, 1973

The meeting was called to order by Senator McKeon. All committee members were present with the exception of Senator Drake who was ill. A hearing was held on SB 23. Judge George Shay and John R. Wimmer, both representing the Montana Magistrates Association, spoke in favor with certain recommendations. The chairman put this bill into a subcommittee; on the subcommittee are Senators Harrison and Zody.

The subcommittee on SB 26, 27, 28, 29 made up of Senators Turnage, Drake and Hall submitted their recommendations on these bills. They felt that SB 26, 27, and 29 should not pass. This committee also studied SB 31 and 32 and reported on these bills also. They recommended that SB 31 do not pass.

They gave the committee their suggested amendments on SB 28 and 32:

SB 28 On page 1, Line 15 by striking the word and number "nine (9)" and adding the word and No. "seven (7)" after the word "of" and before the word "members"

And further amend on page 1, line 19 by striking the words "Montana Bar Association;" and adding the words "Supreme Court who have practiced law in this state for at least ten years;" after the word "the" on line 19.

And further amend on page 1, section 1 by striking subsection (3) and by renumbering subsection (4) and making it subsection (3).

And further amend on page 1, line 21 by striking the word and number "three (3)" and adding the word and number "two (2)" before the word "citizens"

And further amend on page 1, line 22 by striking the words and number "two (2) of whom" and adding the word "who" as it appears after the word "retired," add before the word "must"

And further amend on page 1, line 23 by adding the punctuation mark "period (.)" after the word "Governor"

And further amend on page 1 by striking in their entirety lines 24 and 25.

And further amend on page 1 by adding a new subsection (4) which reads "§4) All appointments shall be confirmed by the Senate; appointments made when the Senate is not in session are effective until the end of the legislative session."

And further amend on page 2, section 2, line 14 by striking the words "The Montana Bar Association" and adding the words "The Supreme Court" before the word "Shall" in line 14.

Judiciary

23

[illegible]

27

SENATE JUDICIARY COMMITTEE---January 16, 1973

The meeting was called to order by Chairman McKeon. All members were present except Senator Drake who was excused because of illness.

The committee discussed SB 70 and 71. Senator Moore introduced three witness to speak in favor of the bill. They were Tom Dowling, President of the County Attorneys Association, Mr. G.R. Hickman and Mr. Conrad Fredericks both members of the Association. The chairman read several letters for testimony from judges throughout Montana, both supporting and opposing the bill. Because the Chairman knew of others who wanted to testify at a later date, these bills were not acted upon.

The committee discussed SB 6, which had been partially amended by Roger Hazell in the Legislative Council. They studied the proposals made by Roger and Senator Harrison added a new amendment.

The amendments were as follows:

SB 6 Page 1, line 24, delete the words "money only" and insert in lieu thereof "injury to person or property"

Section 1 and Section 3 of this act shall be in full force and effect as of July 1, 1973

Section 2 strike in its entirety beginning with line 19 and striking through line 25.

Striking Section 4 in its entirety.

Inserting in lieu of in Section 2, beginning with line 19: The State, counties, cities, towns, and all other local governmental entities shall have no immunity from suit for injury to a person or property. This provision shall apply only to causes of action arising after July 1, 1973. The state through the department of administration has the right to provide for self insurance for claims for injury to a person or property. The state, counties, cities, towns, and all other local governmental entities have the right also, but not the duty, to purchase insurance to protect against claims for injury to a person or property.

Senator Turnage moved that this bill do pass as amended; Sen. Harrison seconded the motion; and the committee unanimously voted that SB 6 AS AMENDED DO PASS.

Senator Turnage moved that SB 32 do pass as amended; Sen. Moore seconded the motion; and the committee unanimously voted that SB 32 AS AMENDED DO PASS. However, discussion followed and Senator Turnage decided to withdraw his motion. The Chairman asked that the report on this bill be held for another meeting.

January 16--continued

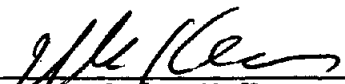
Senator Turnage spoke to the committee on SB 47 which was put into a subcommittee composed of him and Senator Zody and Sen. Boylan. Senator Turnage moved that this bill do not pass; Sen. Harrison seconded; and the committee unanimously voted that this bill DO NOT PASS.

The committee also discussed SB 23. Sen. Turnage moved that it be amended; Sen. Gilfeather seconded; and the Committee unanimously voted that it be amended. It was amended as follows:

SB 23 On page 10, Section 12, line 12 by adding the words "with the exception of the office of the Justice of the Peace which office may not be combined or consolidated with any other office other than another office of the Justice of the Peace office" following the word "consolidated"

Senator Harrison moved that this bill do pass as amended; Senator Gilfeather seconded; and the committee unanimously voted that this bill AS AMENDED DO PASS.

The meeting was adjourned. The next meeting was scheduled for January 17 on adjournment of the Senate.



Senator Luke McKeon, Chairman

J U D I C I A R Y

Senate Committee

Date 1/10 5 Bill No. 23 Time

	Y	N
McKeon	☒	☐
Gilfeather	☒	☐
Boylan	☒	☐
Hall	☒	☐
Zody	☒	☐
Drake	☒	☐
Harrison	☒	☐
Moore	☒	☐
Turnage	☒	☐

MJ Rice McK
 Mary Jane Rice, Secretary Senator McKeon, Chairman

Motion: DO PASS AS AMENDED

J U D I C I A R Y

Senate Committee

Date 7/16 5 Bill No. 23 Time

	Y	N
McKeon	/	
Gilfeather	/	
Boylan	/	
Hall	/	
Zody	/	
Drake	/	
Harrison	/	
Moore	/	
Turnage	/	

MJ Rice JL
Mary Jane Rice, Secretary Senator McKeon, Chairman

Motion: he amended

IMPLEMENTING THE
1972 CONSTITUTION

1

SENATE BILL NO. 23

2

INTRODUCED BY MOORE, LYNCH

3

4

11-727, 16-2403, 16-2404, 16-2406, 25-303, 25-305 THROUGH

5

25-307, 93-401 THROUGH 93-403, 93-405, 93-704, 93-1602,

6

93-6601, 93-6602, 93-6706, 93-6903, 93-7302, 93-7311,

7

93-7402, 93-7605, 93-7607, 93-7704, 93-7709, 93-9705

8

9

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE

10

MINIMUM NUMBER OF JUSTICES OF THE PEACE, THEIR COMPENSATION,

11

QUALIFICATIONS, TERMS OF OFFICE, TRAINING AND DESIGNATION AS

12

COUNTY OFFICERS; PROVIDING FOR THE COLLECTION OF FEES BY

13

JUSTICES AND IMPROVEMENT OF THEIR FACILITIES; ABOLISHING

14

FEES IN CRIMINAL ACTIONS; AND DELETING REFERENCES TO

15

TOWNSHIPS; ALL TO COMPLY WITH ARTICLE VII, SECTIONS 5 AND 7

16

OF THE 1972 MONTANA CONSTITUTION; AMENDING SECTIONS 11-727,

17

16-2403, 16-2404, 16-2406, 25-307, 93-401 THROUGH 93-403,

18

93-405, 93-704, 93-1602, 93-6601, 93-6602, 93-6706,

19

93-6903, 93-7302, 93-7311, 93-7402, 93-7605, 93-7607,

20

93-7704, 93-7709, 93-9705, R.C.M. 1947; AND REPEALING

21

SECTIONS 25-303, 25-305 AND 25-306, R.C.M. 1947."

22

23

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF

24

MONTANA:

25

Section 1. The board of county commissioners shall

1 set salaries for justices of the peace by resolution,
2 provided that:

3 (1) if the salary of the justice of the peace was
4 determined on a fee basis for the years 1971 and 1972, he
5 shall receive a monthly salary of not less than
6 one-eighteenth of the total fees, civil and criminal,
7 collected by the justice or his predecessor in office during
8 the two (2) years, 1971 and 1972;

9 (2) if the salary of the justice of the peace was
10 determined on a non-fee basis for the years 1971 and 1972,
11 the justice shall be paid not less than the highest salary
12 earned by the justice or his predecessor for the years 1971
13 and 1972.

14 Section 2. In the resolution providing for the salary
15 the county commissioners shall designate the office hours
16 for each justice. Office hours shall be commensurate with
17 the salary provided.

18 Section 3. (1) The board of county commissioners of
19 the county in which the justice of the peace has been
20 elected or appointed shall provide for the justices of the
21 peace:

22 (a) the office, courtroom and clerical assistance
23 necessary to enable him to perform his duties in dignified
24 surroundings;

25 (b) the books, records, forms, papers, stationery,

1 postage, office equipment and supplies necessary in the
2 proper keeping of the records and files of the judicial
3 office and the transaction of the business;

4 (c) the latest edition of the Revised Codes of
5 Montana and all official supplements thereto.

6 (2) All actual and necessary expenses incurred by
7 the justice of the peace in the performance of his official
8 duties is a legal charge against the county.

9 Section 4. Section 93-401, R.C.M. 1947, is amended to
10 read as follows:

11 "93-401. Justices' courts and justices. (1) There
12 must be at least ~~two-justices'-courts~~ one (1) justice court
13 in each ~~of-the-organized townships~~ county of the state, for
14 which ~~two--justices~~ one (1) justice of the peace must be
15 elected by the qualified electors of the ~~township~~ county at
16 the general state election next preceding the expiration of
17 the term of office of his predecessor."

18 (2) A justice of the peace shall be nominated and
19 elected on the non-partisan judicial ballot in the same
20 manner as are judges of the district court. Each judicial
21 office shall be a separate and independent office for
22 election purposes and each office shall be numbered by the
23 county commissioners and each candidate for justice of the
24 peace shall specify the number of the office for which he
25 seeks to be elected. A candidate may not file for more than

1 one (1) office. Section 23-4511 prohibiting political party
2 endorsement for judicial officers shall also apply to
3 justices of the peace.

4 (3) Each justice of the peace, elected or appointed,
5 after he has received his certificate of election or
6 appointment, shall, before entering upon the duties of his
7 office take the constitutional oath of office, which must be
8 filed with the county clerk.

9 (4) Before the county clerk may file the oath the
10 elected or appointed justice must satisfy the clerk that he
11 is either:

12 (a) an attorney at law authorized to practice law in
13 the state of Montana, or

14 (b) a person who has held the office of justice of
15 the peace within the preceding five (5) years, or

16 (c) a person who has completed the orientation
17 course of study held under the direction of the Montana
18 Magistrates Association of the state of Montana; or if a
19 person is appointed after the course is offered he must
20 agree to take the course at the next offering and failure to
21 do so will disqualify him.

22 (5) The Montana Magistrates Association shall
23 present a course of study within four (4) weeks following
24 each general election. Mileage and per diem shall be paid
25 the elected or appointed justice of the peace for attending

1 the course and shall be a proper charge against the county
2 wherein the justice of the peace will hold court."

3 Section 5. Section 11-727, R.C.M. 1947, is amended to
4 read as follows:

5 "11-727. Compensation of justices of the peace acting
6 as police judge. In towns, the council may designate a
7 justice of the peace of the ~~township~~ county in which the
8 town is situated to act as police judge, and may by
9 ordinance fix his compensation for his services, not
10 exceeding one hundred dollars per annum, and the justices of
11 the peace so designated must act as a police judge in all
12 cases arising out of a violation of ordinances where the
13 town is a party."

14 Section 6. Section 93-402, R.C.M. 1947, is amended to
15 read as follows:

16 "93-402. Courts--where held--when open for business.
17 A justice's court may be held at any place selected by the
18 justice holding the same, in the ~~township~~ county for which
19 he is elected or appointed; and such court is always open
20 for the transaction of business, except on legal holidays
21 and non-judicial days; ~~provided, that said justice may hold~~
22 ~~court beyond the limits of his township as provided in~~
23 ~~section 93-403."~~

24 Section 7. Section 93-403, R.C.M. 1947, is amended to
25 read as follows:

1 "93-403. Holding court for another justice within
 2 county ~~holding--court--outside-township-in-criminal-case-to~~
 3 ~~save-expense.~~ A justice of the peace of any township county
 4 may hold the court of any other justice of the peace of the
 5 same county at his request, and while so acting is vested
 6 with the power of the justice for whom he so holds court, in
 7 which case the proper entry of the proceedings before the
 8 attending justice, subscribed by him, must be made in the
 9 docket of the justice for whom he so holds the court.
 10 ~~provided, further, that whenever it shall appear to said~~
 11 ~~justice that, in any criminal case because of the distance~~
 12 ~~and number of witnesses involved, it would effect a~~
 13 ~~substantial saving to hold court in a township beyond the~~
 14 ~~limits of his township, he shall issue his certificate of~~
 15 ~~necessity therefor and notify the justice or justices of~~
 16 ~~said township wherein said court is to be held, and shall~~
 17 ~~enter said order on his docket. In such an event the said~~
 18 ~~justice shall have full and complete jurisdiction to hold~~
 19 ~~said court in said designated township. The actual~~
 20 ~~traveling expenses of said justice in holding court outside~~
 21 ~~the confines of his township shall be a proper charge~~
 22 ~~against the county."~~

23 Section 8. Section 93-405, R.C.M. 1947, is amended to
 24 read as follows:

25 "93-405. Terms of office. The term of office of

1 justices of peace is ~~two~~ four (4) years from the first
2 Monday in January next succeeding their election."

3 Section 9. Section 25-307, R.C.M. 1947, is amended to
4 read as follows:

5 "25-307. Collection and disposition of fees ~~in~~
6 ~~townships-of-ten-thousand-and--upwards--~~itemized statement.

7 Justices of the peace ~~in-townships-having-a-population-of~~
8 ~~ten-thousand-people--and--upwards~~ shall collect the fees
9 prescribed by law for justices of the peace, ~~except-the-fees~~
10 ~~in--criminal--actions--other-than-for-the-issuance-of-search~~
11 ~~warrants~~, and shall pay the same into the county treasury of
12 the county wherein they hold ~~such~~ office, on the first day
13 of each month, to be credited to the contingent fund of ~~such~~
14 the county; and shall also file ~~therewith~~ an itemized
15 statement showing all fees received during the preceding
16 month in connection with his office; said statement shall
17 also state that all fees required by law to be paid in
18 connection with matters pending before him as ~~such~~ a justice
19 during the preceding month have been paid to him, and by him
20 paid into the county treasury, and listed in said itemized
21 statement, and that he has not received or been promised,
22 nor has any one else received or been promised for him, any
23 other moneys, emolument, or thing whatsoever by virtue of or
24 in connection with his office; and said statement shall be
25 subscribed and sworn to by the justice. This section,

1 however, shall not apply to "miscellaneous fees" excepted by
2 section 25-304, supra."

3 Section 10. Section 16-2404, R.C.M. 1947, is amended
4 to read as follows:

5 "16-2404. Township officers. The officers of
6 townships are ~~two-justices-of-the-peace~~, two constables, and
7 such other inferior and subordinate officers as are provided
8 for elsewhere in this code, or by the board of county
9 commissioners."

10 Section 11. Section 16-2403, R.C.M. 1947, is amended
11 to read as follows:

12 "16-2403. County officers enumerated. The officers of
13 a county are:

14 A treasurer;

15 A county clerk;

16 A clerk of the district court;

17 A sheriff;

18 A county auditor, except in the sixth, seventh, and
19 eighth class counties;

20 A county attorney;

21 A surveyor;

22 A coroner;

23 A public administrator;

24 An assessor;

25 A county superintendent of common schools;

1 A board of county commissioners;

2 At least one (1) justice of the peace."

3 Section 12. Section 16-2406, R.C.M. 1947, is amended
4 to read as follows:

5 "16-2406. County and other officers, when elected and
6 term of office. There shall be elected in each county the
7 following county officers who shall possess the
8 qualifications for suffrage prescribed by the constitution
9 of the state of Montana, and such other qualifications as
10 may be prescribed by law:

11 One county clerk who shall be clerk of the board of
12 county commissioners and ex officio recorder; one sheriff;
13 one treasurer, who shall be collector of the taxes;
14 provided, that the county treasurer shall not be eligible to
15 his office for the succeeding term; one county
16 superintendent of schools; one county surveyor; one
17 assessor; one coroner; one public administrator; and at
18 least one (1) justice of the peace. Persons elected to the
19 different offices named in this section shall hold their
20 respective offices for the term of four (4) years, and until
21 their successors are elected and qualified.

22 The county attorneys, county auditors, and all
23 elective township officers, must be elected at each general
24 election as now provided by law. The officers mentioned in
25 this act must take office on the first Monday of January

1 next succeeding their election, except the county treasurer,
2 whose term begins on the first Monday of March next
3 succeeding his election.

4 Vacancies in all county, township and precinct
5 offices, except that of county commissioners, shall be
6 filled by appointment by the board of county commissioners,
7 and the appointee shall hold his office until the next
8 general election; provided, however, that the board of
9 county commissioners of any county may, in its discretion,
10 consolidate any two or more of the within named offices and
11 combine the powers and the duties of the said offices
12 consolidated WITH THE EXCEPTION OF THE OFFICE OF THE JUSTICE
13 OF THE PEACE, WHICH OFFICE MAY NOT BE COMBINED OR
14 CONSOLIDATED WITH ANY OTHER OFFICE OTHER THAN ANOTHER
15 JUSTICE OF THE PEACE OFFICE; however, the provisions hereof
16 shall not be construed as allowing one (1) office incumbent
17 to be entitled to the salaries and emoluments of two (2) or
18 more offices; provided, further, that in consolidating
19 county offices, the board of county commissioners shall, six
20 (6) months prior to the general election held for the
21 purpose of electing the aforesaid officers, make and enter
22 an order, combining any two (2) or more of the within named
23 offices, and shall cause the said order to be published in a
24 newspaper, published and circulated generally in said
25 county, for a period of six (6) weeks next following the

1 date of entry of said order."

2 Section 13. Section 93-704, R.C.M. 1947, is amended to
3 read as follows:

4 "93-704. Residence and qualifications of justices of
5 the peace. Every justice of the peace must reside in the
6 ~~township~~ county in which his court is held, and no person is
7 eligible to the office of justice of the peace unless he
8 shall have been a citizen of the United States and a
9 resident of the county, in which he is to serve, for one
10 year next preceding his election or appointment."

11 Section 14. Section 93-1602, R.C.M. 1947, is amended
12 to read as follows:

13 "93-1602. How to be summoned. Such jurors must be
14 summoned from the persons competent to serve as jurors,
15 residents of the ~~township~~ county, city, or town in which
16 such court has jurisdiction, by notifying them orally that
17 they are summoned, and of the time and place at which their
18 attendance is required."

19 Section 15. Section 93-6601, R.C.M. 1947, is amended
20 to read as follows:

21 "93-6601. Where actions must be commenced. Actions in
22 justices' courts may be commenced, and, subject to the right
23 to change the place of trial, as in this chapter provided,
24 may be tried:

25 1. When the defendant, or all the defendants, if

1 there be more than one, reside in another county than that
2 in which the right of action accrues, and the action be for
3 the recovery of personal property, or the value thereof, or
4 damages for taking or detaining the same; in ~~any-township-of~~
5 the county in which the property, or any part thereof, may
6 be found, or in which the property, or any part thereof, was
7 taken, or in which the defendant or either of the defendants
8 reside;

9 2. When the defendant, or all of the defendants, if
10 there be more than one, reside in another county than that
11 in which the right of action accrues, and the action be for
12 damages for violation of an express or implied contract, or
13 for money due on an express or implied contract, debt, note,
14 or account; in ~~any--township--of~~ the county in which such
15 contract or obligation is to be or was to have been
16 performed, or such money is to be or was to have been paid,
17 or in which the defendant or either of the defendants
18 resides; and the county in which the obligation is incurred
19 shall be deemed to be the county in which it is to be
20 performed or paid, unless there is a special contract to the
21 contrary;

22 3. When the defendant, or all of the defendants, if
23 there be more than one, reside in another county than that
24 in which the right of action accrues, and the action be for
25 damages for injury to person, property, or reputation; in

1 ~~any--township--of~~ the county where the injury was committed,
2 or in which the defendant or either of the defendants
3 reside;

4 4. When the defendant is a nonresident of the county;
5 in ~~any--township--of~~ any county where he may be found and
6 served with summons personally;

7 5. When the defendant is a nonresident of the state;
8 in any ~~township~~ county of the state;

9 6. When the parties voluntarily appear and plead,
10 without summons; in any ~~township~~ county of the state;

11 7. In all other cases; in any ~~township-of-the~~ county
12 in which the defendant, or any one of the defendants, if
13 there be more than one, reside, or may be found and served
14 with summons personally."

15 Section 16. Section 93-6602, R.C.M. 1947, is amended
16 to read as follows:

17 "93-6602. Place of trial may be changed in certain
18 cases. The court may, at any time before trial, on motion,
19 change the place of trial in the following cases:

20 1. When it appears to the satisfaction of the justice
21 before whom the action is pending, by affidavit of either
22 party, that such justice is a material witness for either
23 party.

24 2. When either party makes and files an affidavit
25 that he cannot have a fair and impartial trial before such

1 justice, by reason of the interest, prejudice, or bias of
2 the justice.

3 3. When a jury has been demanded, and either party
4 makes and files an affidavit that he cannot have a fair and
5 impartial trial, on account of the bias or prejudice of the
6 citizens of the ~~township~~ county, town, or city against him.

7 4. When, from any cause, the justice is disqualified
8 from acting.

9 5. When the justice is sick or unable to act."

10 Section 17. Section 93-6706, R.C.M. 1947, is amended
11 to read as follows:

12 "93-6706. Summons--how issued, directed and what to
13 contain. The summons must be directed to the defendant and
14 signed by the justice, and must contain:

15 1. The title of the court, the name of the county and
16 city ~~or--township~~ in which the action is commenced, and the
17 names of the parties thereto;

18 2. A sufficient statement of the cause of action, in
19 general terms, to apprise the defendant of the nature of the
20 claim against him, but a copy of the complaint in the action
21 when served with the copy of the summons upon defendant in
22 lieu of said statement, is sufficient;

23 3. A direction that the defendant appear and answer
24 before the justice, at his office, as specified in the next
25 section. And that if he fail to appear and answer, judgment

1 will be taken against him according to the complaint."

2 Section 18. Section 93-6903, R.C.M. 1947, is amended
3 to read as follows:

4 "93-6903. A defendant arrested must be taken before
5 the justice immediately. The defendant, immediately upon
6 being arrested, must be taken to the office of the justice
7 who made the order, and if he is absent or unable to try the
8 action, or if it appears to him by the affidavit of
9 defendant that he is a material witness in the action, the
10 officer must immediately take the defendant before another
11 justice of the ~~town, township, or city~~ county, if there is
12 another, and if not, then before a justice of an adjoining
13 ~~township~~ county, who must take jurisdiction of the action,
14 and proceed thereon as if the summons had been issued and
15 the order of arrest made by him."

16 Section 19. Section 93-7302, R.C.M. 1947, is amended
17 to read as follows:

18 "93-7302. Judgment of dismissal entered in certain
19 cases without prejudice. Judgment that the action be
20 dismissed without prejudice to a new action, may be entered
21 with costs in the following cases:

22 1. When the plaintiff voluntarily dismisses the
23 action, at or before the close of his evidence, when there
24 is no counterclaim.

25 2. When he fails to appear at any time within five

1 days after default has been entered, or at the time to which
2 the action has been postponed.

3 3. When, after a demurrer to the complaint has been
4 sustained, the plaintiff fails to amend it within the time
5 allowed by the court.

6 4. When it is objected at the trial, and appears by
7 the evidence, that the action is brought in the wrong
8 county,--or-township,--town,--or-city; but if the objection is
9 taken and overruled, it is the cause of a reversal on
10 appeal, and does not otherwise invalidate the judgment; if
11 not taken at the trial, it is waived."

12 Section 20. Section 93-7311, R.C.M. 1947, is amended
13 to read as follows:

14 "93-7311. Abstract of judgment. The justice, on the
15 demand of a party in whose favor judgment is rendered, must
16 give him an abstract of the judgment in substantially the
17 following form (filling blanks according to the facts):

18 "State of Montana

19 County of

20, plaintiff, v., defendant.

21 In justice's court, before, justice of the peace,
22 township ~~(city-or-town)~~ county,, 19.. (inserting
23 date of abstract). Judgment entered for plaintiff (or
24 defendant) for \$....., on the day of I certify
25 that the foregoing is a correct abstract of a judgment

1 rendered in said action in my court, or (as the case may be)
2 in the court of, justice of the peace, as it appears by
3 his docket, now in my possession, as his successor in
4 office.

5 Justice of
6 the Peace."

7 Section 21. Section 93-7402, R.C.M. 1947, is amended
8 to read as follows:

9 "93-7402. Form of execution. The execution must be
10 directed to the sheriff or to a constable of the county, and
11 must be subscribed by the justice and bear date the day of
12 its issuance. It must intelligibly refer to the judgment,
13 by stating the names of the parties, and the name of the
14 justice before whom, and of the county ~~and-the-township,~~
15 ~~town,-or-city~~ where, and the time when, it was rendered; the
16 amount of the judgment, if it be for money; and if less than
17 the whole is due, the true amount due thereon. It must
18 contain, in like cases, similar directions to the sheriff or
19 constable as are required by the provisions of sections
20 93-5801 to 93-5845, in an execution to the sheriff, except
21 that it shall not direct the officer to in any manner levy
22 upon or satisfy the judgment, or any interest thereon, from
23 any real property."

24 Section 22. Section 93-7605, R.C.M. 1947, is amended
25 to read as follows:

1 "93-7605. Proceedings when office becomes vacant and
2 before a successor is appointed. If the office of a justice
3 become vacant by his death or removal from the ~~township~~
4 ~~town, or city~~ county, or otherwise, before his successor is
5 elected and qualified, the docket and papers in possession
6 of such justice must be deposited in the office of some
7 other justice in the ~~township~~ county, to be by him delivered
8 to the successor of such justice. If there is no other
9 justice in the ~~township~~ county, then the docket and papers
10 of such justice must be deposited in the office of the
11 county clerk, to be by him delivered to the successor in
12 office of the justice."

13 Section 23. Section 93-7607, R.C.M. 1947, is amended
14 to read as follows:

15 "93-7607. Justice elected to fill vacancy. The
16 justice elected to fill a vacancy is the successor of the
17 justice whose office became vacant before the expiration of
18 a full term. When a full term expires, the same or another
19 person elected to take office in the same ~~township, town, or~~
20 ~~city~~ county from that time is the successor."

21 Section 24. Section 93-7704, R.C.M. 1947, is amended
22 to read as follows:

23 "93-7704. In case of disability of justice, another
24 justice may attend on his behalf. In case of the sickness or
25 other disability, or necessary absence of a justice, on a

1 return of a summons, or at the time appointed for a trial,
2 another justice of the same ~~township~~-~~town~~-~~or-city~~ county,
3 or adjoining ~~township~~ county may, at his request, attend in
4 his behalf, and thereupon is vested with the power, for the
5 time being, of the justice before whom the summons was
6 returnable. In that case, the proper entry of the
7 proceedings before the attending justice, subscribed by him,
8 must be made in the docket of the justice before whom the
9 summons was returnable. If the case is adjourned, the
10 justice before whom the summons was returnable may resume
11 jurisdiction."

12 Section 25. Section 93-7709, R.C.M. 1947, is amended
13 to read as follows:

14 "93-7709. Special constables--appointment. If in any
15 township there should be no duly elected, appointed, or
16 qualified constable, but not otherwise, a justice of the
17 peace in ~~such township~~ the county may, at the request of a
18 party, after being satisfied that it is expedient to do so,
19 specially depute any proper person of suitable age not
20 interested in the action to serve a summons, with or without
21 an order to arrest the defendant, or with or without a writ
22 of attachment, or to serve an execution. The justice shall
23 be liable upon his official bond for all official acts of
24 the person so deputed. Such deputation shall be in writing
25 made on the process, and a note thereof made on the

1 justice's docket."

2 Section 26. Section 93-9705, R.C.M. 1947, is amended
3 to read as follows:

4 "93-9705. What courts have jurisdiction. The district
5 court of the county in which the property, or some part of
6 it, is situated, shall have jurisdiction of proceedings
7 under this chapter; provided, that justices' courts, within
8 their respective ~~towns, townships, or cities~~ counties, shall
9 have concurrent jurisdiction."

10 Section 27. Sections 25-303, 25-305, and 25-306,
11 R.C.M. 1947, are repealed.

-End-

Senate Journal

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Federal Relations, having had under consideration Senate Bill No. 12, respectfully report as follows: That Senate Bill No. 12 do pass.

McDONALD, Chairman

Report adopted.

Mr. President: We, your Committee on Judiciary, having had under consideration Senate Bill No. 23, respectfully report as follows: That Senate Bill No. 23 be amended as follows:

On page 10, Section 12, line 12 by adding the words "with the exception of the office of the Justice of the Peace, which office may not be combined or consolidated with any other office other than another Justice of the Peace office" following the word "consolidated";

And as so amended, do pass.

McKEON, Chairman

Report adopted.

Mr. President: We, your Committee on Constitution, Elections and Federal Relations, having had under consideration Senate Bill No. 61, respectfully report as follows: That Senate Bill No. 61 do pass.

McDONALD, Chairman

Report adopted.

Mr. President: We, your Committee on Education, having had under consideration Senate Bill No. 104, respectfully report as follows: That Senate Bill No. 104 do pass.

GILFEATHER, Chairman

Report adopted.

Mr. President: We, your Committee on Education, having had under consideration Senate Bill No. 105, respectfully report as follows: That Senate Bill No. 105 do pass.

GILFEATHER, Chairman

Report adopted.

Mr. President: We, your Committee on Highways and Transportation, having had under consideration Senate Bill No. 107, respectfully report as follows: That Senate Bill No. 107 do pass.

GRAHAM, Vice-Chairman

Report adopted.

Mr. President: We, your Committee on Highways and Transportation, having had under consideration Senate Bill No. 110, respectfully report as follows: That Senate Bill No. 110 do pass.

GRAHAM, Vice-Chairman

Report adopted.

Mr. President: We, your Committee on Agriculture, Livestock and Irrigation, having had under consideration Senate Joint Resolution No. 10, respectfully report as follows: That Senate Joint Resolution No. 10 be amended as follows:

On page 1, line 6, delete the word "rescind" and insert in lieu thereof the word "revise";

Further amend by deleting after the word "Lands," and punctuation marks and the remainder of lines 8, 9, 10, and 11, and inserting in lieu thereof in the title of the bill the following: "To allow limited and selective use of certain chemical toxicants, under proper safeguards, when found necessary to control excessive depredations of domestic livestock, game animals and birds, and to initiate a program of accelerated predator control research.";

and for the adjustment of prior taxes; and amending Section 84-301, R.C.M. 1947." Referred to Committee on Taxation.

House Bill No. 103, introduced by Swanberg, Edland, Staigmler: A bill for an act entitled: "An act amending Section 69-6013, R.C.M. 1947, relating to the duty of county attorney with respect to refuse disposal districts and boards; providing an exception to the duty of county attorney to defend suits; providing for employment of counsel by a refuse control district or board in certain cases." Referred to Committee on Local Government.

House Bill No. 113, introduced by Bardonouve: A bill for an act entitled: "An act amending Section 81-2404, R.C.M. 1947, to permit transfer of funds among state land income accounts for the purposes of defraying the costs of developing the lands." Referred to Committee on State Administration.

BUSINESS ON SECOND READING

Upon motion of Senator Lynch, duly carried, the Senate resolved itself into a Committee of the Whole for the consideration of Business on Second Reading.

Senator Bollinger in the Chair. Committee arose.

Senate resumed. President Christiansen presiding.

The Committee of the Whole submitted the following report:

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

That Senate Bill No. 6 do pass. Unanimously passed.

That consideration of Senate Bill No. 17 be passed. Unanimously passed.

That Senate Bill No. 23 do pass. Unanimously passed.

That Senate Bill No. 90 do pass. Unanimously passed.

That Senate Bill No. 148 do pass. Unanimously passed.

That Senate Bill No. 167 be amended on page 1, of the yellow bill by adding a new Section to read as follows: "Section 2. This act is effective on its passage and approval." Unanimously passed.

That Senate Bill No. 174 do pass. Unanimously passed.

That House Bill No. 40 be concurred in. Unanimously concurred in.

That the Committee rise and report progress and ask leave to sit again.

BOLLINGER, Chairman

Upon motion of Senator Bollinger, duly carried, the foregoing report of the Committee of the Whole was adopted.

Senator Lynch moved to be on Order of Business No. 8, Second Reading of Bills.

BUSINESS OF SECOND READING

Upon motion of Senator Lynch, duly carried, the Senate resolved itself into a Committee of the Whole for the consideration of Business on Second Reading.

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

That Senate Bill No. 185 do pass. Unanimously passed.

That Senate Bill No. 197 do pass. Unanimously passed.

That consideration of Senate Bill No. 203 be passed. Unanimously passed.

That House Amendments to Senate Bill No. 64 be concurred in. Unanimously concurred in.

That Senate Bill No. 388 be amended in the title on line 5, by striking "A legal holiday; providing that this date be designated" and be further amended in Section 1, line 18 after 1973 by striking the following: "is a legal holiday throughout Montana,";

And as amended, do pass. Opposed by Flynn, Goodheart, Keenan, Lynch, McKeon, Nees, Siderius, Vainio, Zody.

That consideration of Senate Bill No. 177 be passed. Unanimous.

That the Committee rise and report.

VAINIO, Chairman

Upon motion of Senator Lynch, duly carried, the foregoing report of the Committee of the Whole was adopted.

At the request of Senator Groff, and without objection, the Senate reverted to Order of Business No. 6.

MOTIONS AND RESOLUTIONS

Upon motion of Senator Groff, duly carried, that Senate Bill No. 177 be taken from Second Reading and rereferred to the Committee on State Administration.

Upon motion of Senator Lynch, duly carried, that the Rules of the 43rd Legislative Assembly be temporarily suspended and Senate Bill No. 388 be considered correctly engrossed this day.

Upon motion of Senator Lynch, duly carried, that the Rules of the 43rd Legislative Assembly be temporarily suspended and Senate Bill No. 388 be placed on Third Reading this Legislative day.

THIRD READING OF BILLS

Senate Bill No. 6, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 49.

Noes: None.

Absent and not voting: None.

Excused: Drake. Total 1.

Senate Bill No. 23, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 49.

Noes: None.

Absent and not voting: None.

Excused: Drake. Total 1.

Senate Bill No. 90, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 49.

Noes: None.

Absent and not voting: None.

Excused: Drake. Total 1.

Senate Bill No. 148, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Boylan, Breeden, Broeder, Carl, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lynch, Manning, Mathers, McDonald, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Story, Turnage, Zody. Total 40.

Noes: Bollinger, Cochrane, Goodheart, Lowe, McCallum, McGowan, Sorenson, Thiessen, Vainio. Total 9.

Absent and not voting: None.

Excused: Drake. Total 1.

Senate Bill No. 161, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 47.

Noes: Groff, Lowe. Total 2.

Absent and not voting: None.

Excused: Drake. Total 1.

Senate Bill No. 167, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James,

IMPLEMENTING THE
1972 CONSTITUTION

SENATE BILL NO. 23

INTRODUCED BY MOORE, LYNCH

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11-727, 16-2403, 16-2404, 16-2406, 25-303, 25-305 THROUGH
25-307, 93-401 THROUGH 93-403, 93-405, 93-704, 93-1602,
93-6601, 93-6602, 93-6706, 93-6903, 93-7302, 93-7311,
93-7402, 93-7605, 93-7607, 93-7704, 93-7709, 93-9705

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
MINIMUM NUMBER OF JUSTICES OF THE PEACE, THEIR COMPENSATION,
QUALIFICATIONS, TERMS OF OFFICE, TRAINING AND DESIGNATION AS
COUNTY OFFICERS; PROVIDING FOR THE COLLECTION OF FEES BY
JUSTICES AND IMPROVEMENT OF THEIR FACILITIES; ABOLISHING
FEES IN CRIMINAL ACTIONS; AND DELETING REFERENCES TO
TOWNSHIPS; ALL TO COMPLY WITH ARTICLE VII, SECTIONS 5 AND 7
OF THE 1972 MONTANA CONSTITUTION; AMENDING SECTIONS 11-727,
16-2403, 16-2404, 16-2406, 25-307, 93-401 THROUGH 93-403,
93-405, 93-704, 93-1602, 93-6601, 93-6602, 93-6706,
93-6903, 93-7302, 93-7311, 93-7402, 93-7605, 93-7607,
93-7704, 93-7709, 93-9705, R.C.M. 1947; AND REPEALING
SECTIONS 25-303, 25-305 AND 25-306, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF
MONTANA:

Section 1. The board of county commissioners shall

56
THIRD READING

1 set salaries for justices of the peace by resolution,
2 provided that:

3 (1) if the salary of the justice of the peace was
4 determined on a fee basis for the years 1971 and 1972, he
5 shall receive a monthly salary of not less than
6 one-eighteenth of the total fees, civil and criminal,
7 collected by the justice or his predecessor in office during
8 the two (2) years, 1971 and 1972;

9 (2) if the salary of the justice of the peace was
10 determined on a non-fee basis for the years 1971 and 1972,
11 the justice shall be paid not less than the highest salary
12 earned by the justice or his predecessor for the years 1971
13 and 1972.

14 Section 2. In the resolution providing for the salary
15 the county commissioners shall designate the office hours
16 for each justice. Office hours shall be commensurate with
17 the salary provided.

18 Section 3. (1) The board of county commissioners of
19 the county in which the justice of the peace has been
20 elected or appointed shall provide for the justices of the
21 peace:

22 (a) the office, courtroom and clerical assistance
23 necessary to enable him to perform his duties in dignified
24 surroundings;

25 (b) the books, records, forms, papers, stationery,

1 postage, office equipment and supplies necessary in the
2 proper keeping of the records and files of the judicial
3 office and the transaction of the business;

4 (c) the latest edition of the Revised Codes of
5 Montana and all official supplements thereto.

6 (2) All actual and necessary expenses incurred by
7 the justice of the peace in the performance of his official
8 duties is a legal charge against the county.

9 Section 4. Section 93-401, R.C.M. 1947, is amended to
10 read as follows:

11 "93-401. Justices' courts and justices. (1) There
12 must be at least ~~two-justices~~-~~courts~~ one (1) justice court
13 in each ~~of-the-organized townships~~ county of the state, for
14 which ~~two--justices~~ one (1) justice of the peace must be
15 elected by the qualified electors of the ~~township~~ county at
16 the general state election next preceding the expiration of
17 the term of office of his predecessor."

18 (2) A justice of the peace shall be nominated and
19 elected on the non-partisan judicial ballot in the same
20 manner as are judges of the district court. Each judicial
21 office shall be a separate and independent office for
22 election purposes and each office shall be numbered by the
23 county commissioners and each candidate for justice of the
24 peace shall specify the number of the office for which he
25 seeks to be elected. A candidate may not file for more than

1 one (1) office. Section 23-4511 prohibiting political party
2 endorsement for judicial officers shall also apply to
3 justices of the peace.

4 (3) Each justice of the peace, elected or appointed,
5 after he has received his certificate of election or
6 appointment, shall, before entering upon the duties of his
7 office take the constitutional oath of office, which must be
8 filed with the county clerk.

9 (4) Before the county clerk may file the oath the
10 elected or appointed justice must satisfy the clerk that he
11 is either:

12 (a) an attorney at law authorized to practice law in
13 the state of Montana, or

14 (b) a person who has held the office of justice of
15 the peace within the preceding five (5) years, or

16 (c) a person who has completed the orientation
17 course of study held under the direction of the Montana
18 Magistrates Association of the state of Montana; or if a
19 person is appointed after the course is offered he must
20 agree to take the course at the next offering and failure to
21 do so will disqualify him.

22 (5) The Montana Magistrates Association shall
23 present a course of study within four (4) weeks following
24 each general election. Mileage and per diem shall be paid
25 the elected or appointed justice of the peace for attending

1 the course and shall be a proper charge against the county
2 wherein the justice of the peace will hold court."

3 Section 5. Section 11-727, R.C.M. 1947, is amended to
4 read as follows:

5 "11-727. Compensation of justices of the peace acting
6 as police judge. In towns, the council may designate a
7 justice of the peace of the township county in which the
8 town is situated to act as police judge, and may by
9 ordinance fix his compensation for his services, not
10 exceeding one hundred dollars per annum, and the justices of
11 the peace so designated must act as a police judge in all
12 cases arising out of a violation of ordinances where the
13 town is a party."

14 Section 6. Section 93-402, R.C.M. 1947, is amended to
15 read as follows:

16 "93-402. Courts--where held--when open for business.
17 A justice's court may be held at any place selected by the
18 justice holding the same, in the township county for which
19 he is elected or appointed; and such court is always open
20 for the transaction of business, except on legal holidays
21 and non-judicial days;--provided;--that-said-justice-may-hold
22 court beyond-the-limits--of--his--township--as--provided--in
23 section-93-403."

24 Section 7. Section 93-403, R.C.M. 1947, is amended to
25 read as follows:

1 "93-403. Holding court for another justice within
 2 county ~~holding--court--outside-township-in-criminal-case-to~~
 3 ~~save-expense.~~ A justice of the peace of any township county
 4 may hold the court of any other justice of the peace of the
 5 same county at his request, and while so acting is vested
 6 with the power of the justice for whom he so holds court, in
 7 which case the proper entry of the proceedings before the
 8 attending justice, subscribed by him, must be made in the
 9 docket of the justice for whom he so holds the court,
 10 ~~provided,--further,--that--whenever--it--shall--appear--to--said~~
 11 ~~justice--that,--in--any--criminal--case--because--of--the--distance~~
 12 ~~and--number--of--witnesses--involved,--it--would--effect--a~~
 13 ~~substantial--saving--to--hold--court--in--a--township--beyond--the~~
 14 ~~limits--of--his--township,--he--shall--issue--his--certificate--of~~
 15 ~~necessity--therefor--and--notify--the--justice--or--justices--of~~
 16 ~~said--township--wherein--said--court--is--to--be--held,--and--shall~~
 17 ~~enter--said--order--on--his--docket,--in--such--an--event--the--said~~
 18 ~~justice--shall--have--full--and--complete--jurisdiction--to--hold~~
 19 ~~said--court--in--said--designated--township,--The--actual~~
 20 ~~traveling--expenses--of--said--justice--in--holding--court--outside~~
 21 ~~the--confines--of--his--township--shall--be--a--proper--charge~~
 22 ~~against--the--county."~~

23 Section 8. Section 93-405, R.C.M. 1947, is amended to
 24 read as follows:

25 "93-405. Terms of office. The term of office of

1 justices of peace is ~~two~~ four (4) years from the first
2 Monday in January next succeeding their election."

3 Section 9. Section 25-307, R.C.M. 1947, is amended to
4 read as follows:

5 "25-307. Collection and disposition of fees in
6 ~~townships-of-ten-thousand-and--upwards--~~itemized statement.

7 Justices of the peace ~~in-townships-having-a-population-of~~
8 ~~ten-thousand-people--and--upwards~~ shall collect the fees
9 prescribed by law for justices of the peace, ~~except the fees~~
10 ~~in--criminal--actions--other--than--for--the--issuance--of--search~~
11 ~~warrants~~, and shall pay the same into the county treasury of
12 the county wherein they hold ~~such~~ office, on the first day
13 of each month, to be credited to the contingent fund of ~~such~~
14 the county; and shall also file ~~therewith~~ an itemized
15 statement showing all fees received during the preceding
16 month in connection with his office; said statement shall
17 also state that all fees required by law to be paid in
18 connection with matters pending before him as ~~such~~ a justice
19 during the preceding month have been paid to him, and by him
20 paid into the county treasury, and listed in said itemized
21 statement, and that he has not received or been promised,
22 nor has any one else received or been promised for him, any
23 other moneys, emolument, or thing whatsoever by virtue of or
24 in connection with his office; and said statement shall be
25 subscribed and sworn to by the justice. This section,

however, shall not apply to "miscellaneous fees" excepted by section 25-304, supra."

Section 10. Section 16-2404, R.C.M. 1947, is amended to read as follows:

"16-2404. Township officers. The officers of townships are ~~two justices of the peace~~, two constables, and such other inferior and subordinate officers as are provided for elsewhere in this code, or by the board of county commissioners."

Section 11. Section 16-2403, R.C.M. 1947, is amended to read as follows:

"16-2403. County officers enumerated. The officers of a county are:

A treasurer;

A county clerk;

A clerk of the district courts;

A sheriff;

A county auditor, except in the sixth, seventh, and eighth class counties;

A county attorney;

A surveyor;

A coroner;

A public administrator;

An assessor;

A county superintendent of common schools;

1 A board of county commissioners;

2 At least one (1) justice of the peace."

3 Section 12. Section 16-2406, R.C.M. 1947, is amended
4 to read as follows:

5 "16-2406. County and other officers, when elected and
6 term of office. There shall be elected in each county the
7 following county officers who shall possess the
8 qualifications for suffrage prescribed by the constitution
9 of the state of Montana, and such other qualifications as
10 may be prescribed by law:

11 One county clerk who shall be clerk of the board of
12 county commissioners and ex officio recorder; one sheriff;
13 one treasurer, who shall be collector of the taxes;
14 provided, that the county treasurer shall not be eligible to
15 his office for the succeeding term; one county
16 superintendent of schools; one county surveyor; one
17 assessor; one coroner; one public administrator; and at
18 least one (1) justice of the peace. Persons elected to the
19 different offices named in this section shall hold their
20 respective offices for the term of four (4) years, and until
21 their successors are elected and qualified.

22 The county attorneys, county auditors, and all
23 elective township officers, must be elected at each general
24 election as now provided by law. The officers mentioned in
25 this act must take office on the first Monday of January

1 next succeeding their election, except the county treasurer,
2 whose term begins on the first Monday of March next
3 succeeding his election.

4 Vacancies in all county, township and precinct
5 offices, except that of county commissioners, shall be
6 filled by appointment by the board of county commissioners,
7 and the appointee shall hold his office until the next
8 general election; provided, however, that the board of
9 county commissioners of any county may, in its discretion,
10 consolidate any two or more of the within named offices and
11 combine the powers and the duties of the said offices
12 consolidated WITH THE EXCEPTION OF THE OFFICE OF THE JUSTICE
13 OF THE PEACE, WHICH OFFICE MAY NOT BE COMBINED OR
14 CONSOLIDATED WITH ANY OTHER OFFICE OTHER THAN ANOTHER
15 JUSTICE OF THE PEACE OFFICE; however, the provisions hereof
16 shall not be construed as allowing one (1) office incumbent
17 to be entitled to the salaries and emoluments of two (2) or
18 more offices; provided, further, that in consolidating
19 county offices, the board of county commissioners shall, six
20 (6) months prior to the general election held for the
21 purpose of electing the aforesaid officers, make and enter
22 an order, combining any two (2) or more of the within named
23 offices, and shall cause the said order to be published in a
24 newspaper, published and circulated generally in said
25 county, for a period of six (6) weeks next following the

1 date of entry of said order."

2 Section 13. Section 93-704, R.C.M. 1947, is amended to
3 read as follows:

4 "93-704. Residence and qualifications of justices of
5 the peace. Every justice of the peace must reside in the
6 ~~township~~ county in which his court is held, and no person is
7 eligible to the office of justice of the peace unless he
8 shall have been a citizen of the United States and a
9 resident of the county, in which he is to serve, for one
10 year next preceding his election or appointment."

11 Section 14. Section 93-1602, R.C.M. 1947, is amended
12 to read as follows:

13 "93-1602. How to be summoned. Such jurors must be
14 summoned from the persons competent to serve as jurors,
15 residents of the ~~township~~ county, city, or town in which
16 such court has jurisdiction, by notifying them orally that
17 they are summoned, and of the time and place at which their
18 attendance is required."

19 Section 15. Section 93-6601, R.C.M. 1947, is amended
20 to read as follows:

21 "93-6601. Where actions must be commenced. Actions in
22 justices' courts may be commenced, and, subject to the right
23 to change the place of trial, as in this chapter provided,
24 may be tried:

25 1. When the defendant, or all the defendants, if

1 there be more than one, reside in another county than that
2 in which the right of action accrues, and the action be for
3 the recovery of personal property, or the value thereof, or
4 damages for taking or detaining the same; in ~~any-township-of~~
5 the county in which the property, or any part thereof, may
6 be found, or in which the property, or any part thereof, was
7 taken, or in which the defendant or either of the defendants
8 reside;

9 2. When the defendant, or all of the defendants, if
10 there be more than one, reside in another county than that
11 in which the right of action accrues, and the action be for
12 damages for violation of an express or implied contract, or
13 for money due on an express or implied contract, debt, note,
14 or account; in ~~any--township--of~~ the county in which such
15 contract or obligation is to be or was to have been
16 performed, or such money is to be or was to have been paid,
17 or in which the defendant or either of the defendants
18 resides; and the county in which the obligation is incurred
19 shall be deemed to be the county in which it is to be
20 performed or paid, unless there is a special contract to the
21 contrary;

22 3. When the defendant, or all of the defendants, if
23 there be more than one, reside in another county than that
24 in which the right of action accrues, and the action be for
25 damages for injury to person, property, or reputation; in

1 ~~any--township--of~~ the county where the injury was committed,
2 or in which the defendant or either of the defendants
3 reside;

4 4. When the defendant is a nonresident of the county;
5 in ~~any--township--of~~ any county where he may be found and
6 served with summons personally;

7 5. When the defendant is a nonresident of the state;
8 in any ~~township~~ county of the state;

9 6. When the parties voluntarily appear and plead,
10 without summons; in any ~~township~~ county of the state;

11 7. In all other cases; in any ~~township-of-the~~ county
12 in which the defendant, or any one of the defendants, if
13 there be more than one, reside, or may be found and served
14 with summons personally."

15 Section 16. Section 93-6602, R.C.M. 1947, is amended
16 to read as follows:

17 "93-6602. Place of trial may be changed in certain
18 cases. The court may, at any time before trial, on motion,
19 change the place of trial in the following cases:

20 1. When it appears to the satisfaction of the justice
21 before whom the action is pending, by affidavit of either
22 party, that such justice is a material witness for either
23 party.

24 2. When either party makes and files an affidavit
25 that he cannot have a fair and impartial trial before such

1 justice, by reason of the interest, prejudice, or bias of
2 the justice.

3 3. When a jury has been demanded, and either party
4 makes and files an affidavit that he cannot have a fair and
5 impartial trial, on account of the bias or prejudice of the
6 citizens of the ~~township~~ county, town, or city against him.

7 4. When, from any cause, the justice is disqualified
8 from acting.

9 5. When the justice is sick or unable to act."

10 Section 17. Section 93-6706, R.C.M. 1947, is amended
11 to read as follows:

12 "93-6706. Summons--how issued, directed and what to
13 contain. The summons must be directed to the defendant and
14 signed by the justice, and must contain:

15 1. The title of the court, the name of the county and
16 city ~~or--township~~ in which the action is commenced, and the
17 names of the parties thereto;

18 2. A sufficient statement of the cause of action, . in
19 general terms, to apprise the defendant of the nature of the
20 claim against him, but a copy of the complaint in the action
21 when served with the copy of the summons upon defendant in
22 lieu of said statement, is sufficient;

23 3. A direction that the defendant appear and answer
24 before the justice, at his office, as specified in the next
25 section. And that if he fail to appear and answer, judgment

1 will be taken against him according to the complaint."

2 Section 18. Section 93-6903, R.C.M. 1947, is amended
3 to read as follows:

4 "93-6903. A defendant arrested must be taken before
5 the justice immediately. The defendant, immediately upon
6 being arrested, must be taken to the office of the justice
7 who made the order, and if he is absent or unable to try the
8 action, or if it appears to him by the affidavit of
9 defendant that he is a material witness in the action, the
10 officer must immediately take the defendant before another
11 justice of the ~~town, township, or city~~ county, if there is
12 another, and if not, then before a justice of an adjoining
13 ~~township~~ county, who must take jurisdiction of the action,
14 and proceed thereon as if the summons had been issued and
15 the order of arrest made by him."

16 Section 19. Section 93-7302, R.C.M. 1947, is amended
17 to read as follows:

18 "93-7302. Judgment of dismissal entered in certain
19 cases without prejudice. Judgment that the action be
20 dismissed without prejudice to a new action, may be entered
21 with costs in the following cases:

22 1. When the plaintiff voluntarily dismisses the
23 action, at or before the close of his evidence, when there
24 is no counterclaim.

25 2. When he fails to appear at any time within five

1 days after default has been entered, or at the time to which
2 the action has been postponed.

3 3. When, after a demurrer to the complaint has been
4 sustained, the plaintiff fails to amend it within the time
5 allowed by the court.

6 4. When it is objected at the trial, and appears by
7 the evidence, that the action is brought in the wrong
8 county, ~~or township, town, or city~~; but if the objection is
9 taken and overruled, it is the cause of a reversal on
10 appeal, and does not otherwise invalidate the judgment; if
11 not taken at the trial, it is waived."

12 Section 20. Section 93-7311, R.C.M. 1947, is amended
13 to read as follows:

14 "93-7311. Abstract of judgment. The justice, on the
15 demand of a party in whose favor judgment is rendered, must
16 give him an abstract of the judgment in substantially the
17 following form, (filling blanks according to the facts):

18 "State of Montana

19 County of

20, plaintiff, v., defendant.

21 In justice's court, before, justice of the peace,
22 ~~township (city or town)~~ county,, 19.. (inserting
23 date of abstract). Judgment entered for plaintiff (or
24 defendant) for \$....., on the day of I certify
25 that the foregoing is a correct abstract of a judgment

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1 rendered in said action in my court, or (as the case may be)
2 in the court of, justice of the peace, as it appears by
3 his docket, now in my possession, as his successor in
4 office.

5 Justice of
6 the Peace."

7 Section 21. Section 93-7402, R.C.M. 1947, is amended
8 to read as follows:

9 "93-7402. Form of execution. The execution must be
10 directed to the sheriff or to a constable of the county, and
11 must be subscribed by the justice and bear date the day of
12 its issuance. It must intelligibly refer to the judgment,
13 by stating the names of the parties, and the name of the
14 justice before whom, and of the county ~~and-the-township,~~
15 ~~town,-or-city~~ where, and the time when, it was rendered; the
16 amount of the judgment, if it be for money; and if less than
17 the whole is due, the true amount due thereon. It must
18 contain, in like cases, similar directions to the sheriff or
19 constable as are required by the provisions of sections
20 93-5801 to 93-5845, in an execution to the sheriff, except
21 that it shall not direct the officer to in any manner levy
22 upon or satisfy the judgment, or any interest thereon, from
23 any real property."

24 Section 22. Section 93-7605, R.C.M. 1947, is amended
25 to read as follows:

1 "93-7605. Proceedings when office becomes vacant and
2 before a successor is appointed. If the office of a justice
3 become vacant by his death or removal from the township
4 ~~towny-or-city~~ county, or otherwise, before his successor is
5 elected and qualified, the docket and papers in possession
6 of such justice must be deposited in the office of some
7 other justice in the ~~township~~ county, to be by him delivered
8 to the successor of such justice. If there is no other
9 justice in the ~~township~~ county, then the docket and papers
10 of such justice must be deposited in the office of the
11 county clerk, to be by him delivered to the successor in
12 office of the justice."

13 Section 23. Section 93-7607, R.C.M. 1947, is amended
14 to read as follows:

15 "93-7607. Justice elected to fill vacancy. The
16 justice elected to fill a vacancy is the successor of the
17 justice whose office became vacant before the expiration of
18 a full term. When a full term expires, the same or another
19 person elected to take office in the same township, ~~towny-or~~
20 city county from that time is the successor."

21 Section 24. Section 93-7704, R.C.M. 1947, is amended
22 to read as follows:

23 "93-7704. In case of disability of justice, another
24 justice may attend on his behalf. In case of the sickness or
25 other disability, or necessary absence of a justice, on a

1 return of a summons, or at the time appointed for a trial,
2 another justice of the same ~~township, town, or city~~ county,
3 or adjoining ~~township~~ county may, at his request, attend in
4 his behalf, and thereupon is vested with the power, for the
5 time being, of the justice before whom the summons was
6 returnable. In that case, the proper entry of the
7 proceedings before the attending justice, subscribed by him,
8 must be made in the docket of the justice before whom the
9 summons was returnable. If the case is adjourned, the
10 justice before whom the summons was returnable may resume
11 jurisdiction."

12 Section 25. Section 93-7709, R.C.M. 1947, is amended
13 to read as follows:

14 "93-7709. Special constables--appointment. If in any
15 township there should be no duly elected, appointed, or
16 qualified constable, but not otherwise, a justice of the
17 peace in ~~such township~~ the county may, at the request of a
18 party, after being satisfied that it is expedient to do so,
19 specially depute any proper person of suitable age not
20 interested in the action to serve a summons, with or without
21 an order to arrest the defendant, or with or without a writ
22 of attachment, or to serve an execution. The justice shall
23 be liable upon his official bond for all official acts of
24 the person so deputed. Such deputation shall be in writing
25 made on the process, and a note thereof made on the

1 justice's docket."

2 Section 26. Section 93-9705, R.C.M. 1947, is amended
3 to read as follows:

4 "93-9705. What courts have jurisdiction. The district
5 court of the county in which the property, or some part of
6 it, is situated, shall have jurisdiction of proceedings
7 under this chapter; provided, that justices' courts, within
8 their respective towns, ~~townships, or cities~~ counties, shall
9 have concurrent jurisdiction."

10 Section 27. Sections 25-303, 25-305, and 25-306,
11 R.C.M. 1947, are repealed.

-End-

JUDICIARY

COMMITTEE

42nd Legislative Assembly
43rd

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HB 459	Changing the name of the dept of law enforcement and public safety to the dept of justice	1/26/73	2/2/73		2/5/73	Do Pass	Signed by Governor
HB 461	Providing for creation of joint tenancies with right of survivorship and subsequent transfer, etc.	1/26/73	2/8/73		2/9/73	Do Pass As Amended	Senate
SB 6	Sovereign immunity-providing availability of insurance coverage for governmental entities.	1/26/73	2/19/73		2/20/73	Be Concurred In As Amended	Signed by Governor
SB 23	Minimum number of justices of peace-their compensation, qualifications, terms of office, etc.	1/26/73	2/19/73	<i>2/22/73 Partially amended and referred to subcommittee</i>	2/27/73	Be Concurred In As Amended	Governor
HB 320	Prohibiting the public display of offensive sexual material.	1/27/73	2/5/73		2/5/73	Be Held Over	Governor
HB 471	Implementing certain articles of the 1972 constitution and HB 28 providing the term "of unsound mind" to, etc.	1/27/73	2/5/73		2/7/73	Do Pass As Amended	Signed by Governor

JUDICIARY

Room 436

Daily, 9 a.m.

Chairman- John C. Hall- D

Vice Chairman- Dan Yardley- D

William R. Baeth- D

Max S. Baucus- D

John F. Bell- R

Robert J. Brown- R

Michael T. Greely- D

James P. Lucas- R

Gary R. Marbut- R

Pat McKittrick- D

Joe R. Roberts- D

Thomas E. Towe- D

Bill Warfield- R

ROLL CALL

JUDICIARY

COMMITTEE

43 rd LEGISLATIVE SESSION 1973

DATE	9:00 am	1:00 pm	7:30 pm	9:00 am	7:30 pm	9:00 am
HALL, John C., Chrm.	✓	✓	✓	✓	✓	✓
YARDLEY, DAN, V.Chrm.	✓	✓	✓	✓	✓	✓
BAETH, William R.	✓	✓	✓	✓	✓	✓
BAUCUS, Max S.	✓	✓	✓	✓	✓	✓
BELL, John F.	✓	✓	✓	✓	✓	✓
BROWN, Robert J.	✓	✓	✓	✓	✓	✓
GREELY, Michael T.	✓	✓	✓	✓	✓	✓
LUCAS, James P.	✓	✓	✓	✓	✓	✓
MARBUT, Gary R.	✓	✓	✓	✓	✓	✓
McKITTRICK, Pat	✓	✓	✓	✓	✓	✓
ROBERTS, Joe R.	✓	✓	✓	✓	✓	✓
TOWE, Thomas E.	✓	✓	✓	✓	✓	✓
WARFIELD, Bill	✓	✓	✓	✓	✓	✓

February 22, 1973

JUDICIARY COMMITTEE

The thirty eighth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Thursday, February 22, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present except Representatives Baucus and Warfield, absent, excused.

Chairman Hall stated the committee had for consideration Senate Bills 337, 340, 341 and 356, and that Senate Bills 340, 341 and 356 regarding justices of the peace go together.

Senator William R. McNamer, District #8, chief sponsor, summarized Senate Bills 340, 341 and 356 which go together. He stated Senate Bill 23 which the committee has had before it implements constitutional changes with regard to justices of the peace and repeals their fees. These three bills were drafted to put fee back into law. Now all justices of the peace are paid a salary but shouldn't abandon fee system because it helps pay their salary.

SENATE BILL 341 Senator McNamer summarized and explained this bill providing when justices of the peace shall retain or remit fees. No other proponents. No opponents. No questions from the committee. Hearing closed.

SENATE BILL 340 Representative McNamer summarized this bill providing for the collection of certain miscellaneous fees by justices of the peace. No other proponents. No opponents. No questions from the committee. Hearing closed.

SENATE BILL 356 Senator McNamer summarized this bill pertaining to fees of justices of the peace in criminal actions. No other proponents, no opponents. Hearing opened to questions from committee members of which there were several primarily relating to manner of fee collection and distribution. Following the questions hearing was closed.

SENATE BILL 337 Senator McNamer summarized this bill which he introduced at request of Mineral County attorney in Billings probate section with regard to approval of leases on state properties. Page 3, line 12 provides that after a hearing the court may authorize the lease of state lands for ten years. No other proponents and no opponents. No questions from committee. Hearing closed.

EXECUTIVE SESSION

Following hearing on above mentioned bill, Chairman Hall stated the committee was getting behind on acting on bills and that there was time left to take up some of the bills not previously acted on.

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SENATE BILL 23 Chairman Hall suggested the committee take this bill for action dealing with justices of the peace and discuss whether agree with approach in some areas. Chairman Hall suggested a substantive change on page 3, line 18 pertaining to the justices of peace becoming non-partisan. Not sure it is a good idea. Does not feel they are part of the judicial system. In the constitution does not say whether justices of the peace have to be partisan or non-partisan. Representative Greely stated he would like to eliminate subsection (c) in section 4 on page 4. Representative Marbut moved to amend on page 3, section 4, subsection (2) by deleting subsection (2) in its entirety. Representatives Baeth and Greely seconded. Representative Hall stated this will do away with concept on non-partisan justices of the peace, and, at this level feels it is better to have partisan politics. Motion to amend carried with Representatives Yardley and Roberts voting no. Representative Hall looked for something in codes on how justices of the peace are elected now and stated that committee needs to provide for partisan election in lieu of above amendment.

Discussion followed with Representative Greely pointing out the method of fee payment on Page 2, subsection (1) and (2). Representative Greely suggested amending on page 4, subsection (4), line 15 after the word "peace" by deleting the word "within" and inserting in lieu thereof the word "for". Representative Lucas disagrees. Representative Hall suggested striking on page 4, subsection (b), lines 14 and 15, subsection (b) in its entirety. Representative Lucas suggested bill be amended on page 4, line 19 after the word "is" by adding the new material "either elected or". Representative Towe made a substitute motion to amend by deleting on page 4, section 4, subsection (b), lines 14 and 15 by deleting subsection (b) in its entirety. Representative Brown seconded. Motion carried unanimously.

Representative Lucas moved substitute motion to amend on page 4, subsection (c), line 16 after the word "completed" by inserting the new material ", within preceeding six years," and also be amended on page 4, line 19 after the word "is" by inserting the new material "elected or". Motion to amend carried unanimously.

Chairman Hall then turned the committee's attention to page 5, section 5 dealing with police judges. Representative Greely moved to amend on page 5, lines 9 and 10 after the word and punctuation "services," by deleting the material "not exceeding one hundred dollars per annum,". Motion carried unanimously.

Chairman Hall turned the committee's attention to section 6 amending existing statute on selecting place for holding court and then look back at section 3, page 2 which directs the board of county commissioners should provide for justices of the peace. Representative Greely moved to amend page 5, section 6, line 18 by deleting the words "justice holding the same," and inserting in lieu thereof the new material "county commissioners". Motion to amend carried unanimously.

80

Chairman Hall turned the committee's attention to page 7, section 9, lines 9 and 10 and questioned why strike the material "except the fees in criminal actions other than for the issuance of search warrants,". Representative Towe stated he still has trouble with one justice of the peace per county.

Chairman Hall stated that without objection he will now give Senate Bills 23, 340, 341 and 356 to a subcommittee to determine:

- 1) The language to be used in lieu of the deleted subsection (2) on page 3;
- 2) Any other amendments needed;
- 3) To report whether Senate Bills 340, 341 and 356 should be adopted and if so whether to incorporate them into SB 23.

Volunteers for subcommittee were Representatives Baeth, Towe and Baucus with Representative Baeth appointed chairman. No objections voiced by committee members that three Democrats only volunteered.

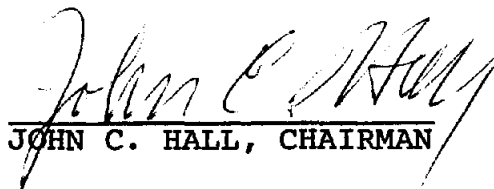
SENATE BILL 154 Representative Greely moved BE NOT CONCURRED IN. Representatives Marbut and Yardley seconded. Representative Greely appreciates the problems people are experiencing, but feels its unconstitutional and wrong to do it this way. Representative Lucas stated this is a local problem the legislature has been asked to address itself to. Motion NOT BE CONCURRED IN carried with Representatives Marbut and Baucus abstaining.

SENATE BILL 269 Representative Lucas was assigned to carry this bill.

SENATE BILL 242 Representative Greely stated he can't see reason for fifty day hearing date. Representative Hall stated that as he understands criminal law, its up to defendent to raise reasonable doubt of his insanity, also temporary insanity which he doesn't believe in. Representative Towe moved SB 242 BE CONCURRED IN. Representative Marbut seconded. Representative Marbut stated he saw nothing sacred about fifty days, could change that but does feel providing for hearing is a good idea and feels bill is a good one. Time ran out for committee meeting and this bill will be carried over until later date.

Meeting adjourned at 10:26 a.m.

JCH:pb


JOHN C. HALL, CHAIRMAN

February 26, 1973

JUDICIARY COMMITTEE

EXECUTIVE SESSION

The fortieth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Monday, February 26, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present.

Senate Bills 340, 341, 356 and 23 had been assigned by Chairman Hall to a subcommittee with Representative Baeth as chairman and Representatives Baucus and Towe as committee members. The subcommittee reported back to committee at beginning of meeting.

SENATE BILL 356 Representative Baeth moved to amend on page 1, line 13 after the word "peace" by inserting the material "which shall be collected from fines and forfeitures received by justices of the peace", and AS AMENDED BE CONCURRED IN. Representative Lucas seconded. Motion carried unanimously.

SENATE BILL 341 Representative Baeth moved to amend on page 1, line 11 by deleting "25-312" and inserting in lieu thereof "25-311", further amend on page 1, line 12 by deleting "25-312" and inserting in lieu thereof "25-311", and further amend on page 1, line 16 by deleting "25-311" and inserting in lieu thereof "25-304" and AS AMENDED BE CONCURRED IN. Representative Towe seconded. Motion carried unanimously.

SENATE BILL 340 Representative Baeth moved BE NOT CONCURRED IN. Representative Towe seconded. Motion carried unanimously.

SENATE BILL 23 Representative Baeth moved to amend on page 3, line 17 after the word and punctuation "predecessor." by inserting the new material "The county commissioners shall establish such other justice courts in the county as they deem necessary.", and further amend on page 3, section 4, lines 18, 19 and 20 by deleting all of the material "(2) A justice of the peace shall be nominated and elected on the non-partisan judicial ballot in the same manner as are judges of the district court.", and further amend on page 3, line 25 and continued over to page 4, lines 1 through 3 by deleting after the word and punctuation "elected." the material "A candidate may not file for more than one (1) office. Section 23-4511 prohibiting political party endorsement for judicial officers shall also apply to justices of the peace.". Representative Towe seconded the motions to amend.

Representative Towe suggested that on page 3, line 20 have the sentence starting with the word "each" follow along in first paragraph so would not be a section (2) but would continue on and renumber subsequent sections.

Representative Greely commented there can be more than one elected justice of the peace and stated he wants to say only one justice can be elected and any other should be appointed. Feels if need an extra justice of the peace he should be appointed, if later he is not needed then disappoint him. Representative Greely made a substitute motion to amend on page 3, line 14 after the word "which" by inserting the new material "only must be at least one". Representative McKittrick seconded and then stated he feels this is a good point but might run into constitutional problems and because of this opposes motion. Representatives Lucas and Baeth agree with Representative McKittrick and Representative Baeth stated he feels this would make it nonpartisan. Considerable discussion on appointing justices of the peace followed. Chairman Hall questioned whether there should be any doubt according to the new Constitution that justices of the peace shall be elected in each county. Representative Roberts feels could divide the county if elected more than one justice of the peace and also appoint area to each justice. Representative Lucas stated that if committee does adopt amendments proposed than as move into that area can seek attorney general's opinion when get there.

Representative Greely's substitute motion to provide that any justices of the peace over the first one be appointed failed with Representatives Greely, Marbut, Warfield and Baucus voting yes, Representative Roberts abstaining.

Committee then reverted to motion made by Representative Baeth. Discussion on the first amendment on page 3, line 17 after the word "predecessor". Representative McKittrick proposed that at the end of Representative Baeth's amendment the new material "in that event county commissioners shall establish jurisdiction" and also "county commissioner shall abolish that office at any time".

Representative Towe made a substitute motion to amend on page 3, line 21 after the words "district court." by inserting the new material "Provided, however, that the county commissioners may abolish any such court upon the end of the term of the justice holding such office and all unfinished business shall be transferred to another justice court in that county." Motion carried unanimously.

Representative Towe made a substitute motion as amendment to Representative Baeth's motion to amend on page 3, line 21 after the word "office" by inserting the new material "with jurisdiction only in territory of county assigned to it by the county commissioners and the justice shall be elected from that territory." Motion carried with Representatives Lucas, Greely, Yardley and Hall voting no.

Motion to accept the three amendments proposed by Representative Baeth carried unanimously.

Representative Towe moved to amend on page 5, line 18 by deleting the new material "county" and the deleted word "territory" be reinserted. Following discussion he withdrew this motion.

Chairman Hall stated he intends to fight this bill on the floor as it is now. Without objection will pass consideration of Senate Bill 23 until tomorrow and have the amendments proposed today typed up and passed out for tomorrow. Feels this is an inexcusable bill at this time.

SENATE BILL 337 Representative Lucas moved BE CONCURRED IN.
Representative Greely seconded. Motion carried unanimously.

SENATE BILL 112 Representative Greely stated this bill is identical to House Bill 238 sponsored by Representative Colberg and questioned why the Senate doesn't accept Representative Colberg's bill as they took his language. Representative Brown moved to amend bill on page 1 by reinserting all material deleted by the Senate, delete the new terminology in title, and delete new terminology on pages 4 and 5 to restore bill to original form. Representative Towe seconded. Representative Brown stated under power of eminent domain other minerals in Montana, not just Eastern Montana, where mineral and surface rights are held by two different parties. If limit bill to coal wonder if taking care of problem of all people of state. Motion to amend carried with Representatives Yardley, Bell, Greely, Lucas and Warfield voting no, Representative Marbut absent. Representative Brown moved AS AMENDED BE CONCURRED IN. Motion carried with Representatives Bell, Warfield, Lucas and Yardley voting no.

SENATE BILL 28 Representative Towe moved BE NOT CONCURRED IN.
Representative Greely seconded. Representative Roberts made a substitute motion to delete section 1 and section 2 in their entirety and amendments present and prepared be adopted in lieu thereof (see exhibit). Stated he has tried to incorporate good features of House Bill 520 into Senate Bill 28. Representative Roberts stated that the provision for one single statewide commission is the feature he likes about SB 28. Chairman Hall deferred action until tomorrow as time had run out for committee meeting.

Chairman Hall stated that the committee would take for consideration on following day Senate Bills 23, 28 and 103 and also House Bill 217 would be brought in again as he was informed by governor's office that funding is a problem on this bill. Steve Brown from the

2/22/73

AMENDMENTS PROPOSED TO SENATE BILL NO 23 BY JUDICIARY COMMITTEE

Be amended on page 4, section 4, subsection (b), lines 14 and 15 by deleting subsection (b) in its entirety, and

Be further amended page 4, section 4, subsection (c), line 16 after the word "completed" by inserting the new material ", within preceeding six years,", and

Be further amended on page 4, section 4, subsection (c), line 19 after the word "is" by inserting the new material "elected or", and

Be further amended on page 5, section 5, lines 9 and 10 after the word and punctuation "services," by deleting the material "not exceeding one hundred dollars per annum,", and

Be further amended on page 5, section 6, line 18 by deleting the words "justice holding the same," and inserting in lieu thereof the new material "county commissioners".

2/26/73

AMENDMENTS PROPOSED TO SENATE BILL NO 23 by JUDICIARY COMMITTEE

Be amended on page 3, line 17 after the word and punctuation "predecessor." by inserting the new material "The county commissioners shall establish such other justice courts in the county as they deem necessary.", and

Be further amended on page 3, section 4, lines 18, 19 and 20 by deleting all of the material "(2) A justice of the peace shall be nominated and elected on the non-partisan judicial ballot in the same manner as are judges of the district court.", and

Be further amended on page 3, section 4, line 25 and continued over to page 4, section 4, lines 1 through 3 by deleting after the word and punctuation "elected." the material "A candidate may not file for more than one (1) office. Section 23-4511 prohibiting political party endorsement for judicial officers shall also apply to justices of the peace.", and

Be further amended by renumbering the subsections following subsection (1), and

Be further amended on page 3, line 21 after the words "independent office" by inserting the new material "with jurisdiction only in the territory of the county assigned to it by the county commissioners and the justice of the peace shall be elected from that territory".

AMENDMENTS PROPOSED TO SENATE BILL NO 23 BY JUDICIARY COMMITTEE

Be amended on page 4, section 4, subsection (b), lines 14 and 15 by deleting subsection (b) in its entirety, and

Be further amended page 4, section 4, subsection (c), line 16 after the word "completed" by inserting the new material ", within preceeding six years,", and

Be further amended on page 4, section 4, subsection (c), line 19 after the word "is" by inserting the new material "elected or", and

Be further amended on page 5, section 5, lines 9 and 10 after the word and punctuation "services," by deleting the material "not exceeding one hundred dollars per annum,", and

Be further amended on page 5, section 6, line 18 by deleting the words "justice holding the same," and inserting in lieu thereof the new material "county commissioners".

2/26/73

PROPOSED AMENDMENTS TO ^{*Senate*} ~~HOUSE~~ BILL NO 23 (cont'd)

Be further amended on page 3, section 4, line ____, after the words "_____" by inserting the new material "Provided, however, that the county commissioners may abolish any such court upon the end of the term of the justice holding such office and all unfinished business shall be transferred to another justice court in that county."

2/22/73

AMENDMENTS PROPOSED TO SENATE BILL NO 23 BY JUDICIARY COMMITTEE

- ⑤ Be amended on page 4, section 4, subsection (b), lines 14 and 15 by deleting subsection (b) in its entirety, and ^{of the}
- ⑥ Be further amended page 4, section 4, subsection (c), line 16 after the word "completed" by inserting the new material ", within ^{Senate} preceding six years," and ^{Third}
- ⑦ Be further amended on page 4, section 4, subsection (c), line 19 after the word "is" by inserting the new material "elected or", and ^{Reading}
- ⑧ Be further amended on page 5, section 5, lines 9 and 10 after the word and punctuation "services," by deleting the material "not exceeding one hundred dollars per annum," and ^{and}
- ⑨ Be further amended on page 5, section 6, line 18 by deleting the words "justice holding the same," and inserting in lieu thereof the new material "county commissioners". ^{Intro}

2/26/73

AMENDMENTS PROPOSED TO SENATE BILL NO 23 by JUDICIARY COMMITTEE

New? Be amended on page 3, line 17 after the word and punctuation "predecessor." by inserting the new material "The county commissioners shall establish such other justice courts in the county as they deem necessary.", and

② Be further amended on page 3, section 4, lines 18, 19 and 20 by deleting all of the material. "(2) A justice of the peace shall be nominated and elected on the non-partisan judicial ballot in the same manner as are judges of the district court.", and

③ Be further amended on page 3, section 4, line 25 and continued over to page 4, section 4, lines 1 through 3 by deleting after the word and punctuation "elected." the material "A candidate may not file for more than one (1) office. Section 23-4511 prohibiting political party endorsement for judicial officers shall also apply to justices of the peace.", and

④ Be further amended on p. 3 and 4, section 4 by renumbering the subsections following subsection (1), and

Be further amended on page 3, line 21 after the words "independent office" by inserting the new material "with jurisdiction only in the territory of the county assigned to it by the county commissioners and the justice of the peace shall be elected from that territory".

SB 23

① Be amended on page 3, line 17 of the Senate Third Reading and Introduced Bill after the word and punctuation "predecessor." by inserting the new material "In counties of the first class the county commissioners may if they deem that the work load of the justices of peace so warrants establish additional justice courts in the county. Such additional justices of the peace shall have the same qualifications, shall be elected in the same manner, and have the same term as the original justice in the county. Provided, however, that the county commissioners may abolish any such court upon the end of the term of the justice holding such office and all unfinished business shall be transferred to another justice court in that county.", and

February 27, 1973

JUDICIARY COMMITTEE

The forty second meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Tuesday, February 27, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present except Representatives Baucus and Towe, absent, excused and Representative Greely, absent.

Chairman Hall opened the meeting stating the committee should take up House Bill 217 before going to the justice of the peace bill.

HOUSE BILL 217 Steve Brown from the governor's office, an attorney, presented each committee member with a copy of a new substitute bill which he had prepared and stated many problems with the previous substitute bill were grammatical and that the Public Health Department had no expertise with drafting bills. State of Montana trying to enforce its own permit system in enforcing water pollution control act. Large sum of federal money involved here. It is crucial to get amended bill passed, our permit system does not now meet federal standards and will have to use federal standards if do not get our own bill. Mr. Brown went through the new substitute bill and explained the provisions. The hearing was then opened to questions from the committee members to Mr. Brown. Considerable questioning followed.

Representative Lucas moved to amend on page 8, line 17 of the new substitute bill (see exhibit) after the word "records" by inserting the new material "required under this act". Representative Yardley seconded. Motion carried unanimously. Representative Lucas moved to amend on page 10, line 14, subsection (2) by deleting the language "or negligently". Representative Bell seconded. Representative Lucas explained that to use "negligently" now is a far, far step and doesn't want to go that far now. Motion to amend carried with Representatives Roberts, McKittrick and Baeth voting no.

Representative Lucas moved to amend on page 11, lines 17 through 24 by striking section 7 in its entirety. Representative Bell seconded. The Chair corrected the amendment to include on page 10, line 24 by deleting parenthesis around (4) and also take out the hyphen. Motion failed with Representatives McKittrick and Warfield absent on this vote, Representatives Lucas, Bell and Brown voted yes.

Representative Lucas moved to amend on page 11, line 24 by deleting the material ", whether or not accidental". Representative Bell seconded. Motion carried with Representative Roberts voting no.

Representative Bell moved DO PASS AS AMENDED. Representative Yardley seconded. Motion carried with Representative Baucus abstaining.

Chairman Hall stated that with permission will report this bill out as a substitute bill, show the title as amended as set forth on bill, that everything after the enacting clause is stricken, will include amendments in substitute bill rather than separately. No objection.

SENATE BILL 23 Representative Roberts stated he and Representative Bell got together since previous meeting and he has done a 180° switch and feels one justice of the peace per county is adequate and proposed an amendment to provide additional justice of the peace appointed by county commissioners where there is a need.

Chairman Hall directed the committee to look at prepared list of amendments made to bill in meeting of February 26, 1973, pointed out the second, third and fourth amendments are from the subcommittee report, others were made by committee yesterday (see exhibit).

Representative Roberts moved to amend by deleting amendment on page 3, line 21 (bottom paragraph in list of amendments). Representative Baucus seconded. Motion carried unanimously.

Representative Roberts moved to amend to first amendment of list for February 26, 1973 by adding the words "In counties of the first class" so that amendment will read "In counties of the first class the county commissioner shall establish such other justice courts in the county as they deem necessary.". Representative Lucas seconded. Motion carried unanimously.

Following discussion of question of election or appointment of justices of the peace Representative Roberts moved to amend by adding "such further justices of the peace shall be appointed". Representative Baucus seconded. Also add to original motion language suggested by Representative Lucas "except as herein provided" to above motion. Representative Hall asked whether they really wanted to have these appointed. Will have to change context of entire bill. Feels if going to have justices of the peace better have them elected and be thrown out at end of term. Representative Roberts withdrew his motion following additional discussion.

Representative Lucas moved to amend that additional justices of the peace be elected as set forth to be added onto first amendment on page 1 of amendment sheet for February 26, 1973. Representative Baeth seconded. Motion carried with Representative Hall voting no, Representative Marbut abstaining.

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Chairman Hall proposed the following language for above amended material on page 3, line 17 after the word "predecessor": "In counties of the first class the county commissioner may if they deem that the work load of the justice of the peace so warrants establish additional justice courts in the county. Such additional justices of the peace shall have the same qualifications, shall be elected in the same manner and have the same terms as the original justice of the peace in the county." Then go on by adding amendment "Provided, however, that the county commissioners may abolish any such court upon the end of the term of the justice holding such office and all unfinished business shall be transferred to another justice court in that county." Chairman Hall stated that, without objection, would then add language on page 2 directly after amendment just read. No objection so will treat that as having been adopted to amend the bill as set forth.

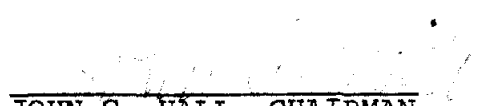
Representative Lucas moved AS AMENDED BE CONCURRED IN. Representative Towe seconded. Motion carried unanimously. Representative Roberts will carry.

SENATE BILL 28 Copies of amendments prepared by Representative Roberts were given to each committee member. Representative Roberts stated he feels House Bill 520 has very superior features and only a couple things he salvaged from Senate Bill 28. Changes essentially are lifted right out of House Bill 520. Representative Lucas stated he likes the idea of statewide commission and dislikes governor appointing commissioners. Discuss today entire commission being appointed by governor. Following much discussion Chairman Hall stated that consideration of bill would be continued on following day as time has run out.

Chairman Hall stated he would like to start considering in Executive Session Senate Bill 109. Feels committee should pass this during this session. Feels only way to find holes in this bill is to live with it.

The meeting adjourned at 10:35 a.m.

JCH:Pb


JOHN C. HALL, CHAIRMAN

February 28, 1973

HOUSE COMMITTEE ON JUDICIARY AMENDMENT TO SENATE BILL NO. 23

Be amended on page 3, line 17 of the Senate Third Reading and Introduced Bill after the word and punctuation "predecessor." by inserting the new material "In counties of the first class the county commissioners may if they deem that the work load of the justices of peace so warrants establish additional justice courts in the county. Such additional justices of the peace shall have the same qualifications, shall be elected in the same manner, and have the same term as the original justice in the county. Provided, however, that the county commissioners may abolish any such court upon the end of the term of the justice holding such office and all unfinished business shall be transferred to another justice court in that county.", and

Be further amended on page 3, section 4, lines 18, 19 and 20 of the Senate Third Reading and Introduced Bill by deleting all of the material ~~"(2) A justice of the peace shall be nominated and elected on the non-partisan judicial ballot in the same manner as are judges of the district court"~~, and

Be further amended on page 3, section 4, line 25 and continued over to page 4, section 4, lines 1 through 3 of the Senate Third Reading and Introduced Bill by deleting after the word and punctuation "elected." the material ~~"A candidate may not file for more than one (1) office. Section 23-4511 prohibiting political party endorsement for judicial officers shall also apply to justices of the peace."~~, and

Be further amended on pages 3 and 4, section 4 of the Senate Third Reading and Introduced Bill by renumbering the subsections following subsection (1), and

Be further amended on page 4, section 4, subsection (b), lines 14 and 15 of the Senate Third Reading and Introduced Bill by deleting subsection (b) in its entirety, and

Be further amended on page 4, section 4, subsection (c), line 16 of the Senate Third Reading and Introduced Bill after the word "completed" by inserting the new material " , within preceeding six years,", and

Be further amended on page 4, section 4, subsection (c), line 19 of the Senate Third Reading and Introduced Bill after the word "is" by inserting the new material "elected or", and

Be further amended on page 5, section 5, lines 9 and 10 of the Senate Third Reading and Introduced Bill after the word and punctuation "services," by deleting the material ~~"not exceeding one hundred dollars per annum,"~~, and

Be further amended on page 5, section 6, line 18 of the Senate Third Reading and Introduced Bill by deleting the words ~~"justice holding the same,"~~ and inserting in lieu thereof the new material "county commissioners".

Noes: Ainsworth, Baucus, Bell, Driscoll, Fasbender, Flynn, Hager, Haines, Hall, H. Harper, Holmes, Holtz, Kendall, Kimble, Marbut, Norman, Quilici, Regan, Stoltz, Swanberg, Turman, Turner, Watt, Yardley. Total 24.

Excused :Stephens. Total 1.

Absent or Not Voting: Greely, Huennekens. Total 2.

February 28, 1973

Mr. Speaker: We, your Committee on Judiciary, having had under consideration Senate Bill No. 103, respectfully report as follows: That Senate Bill No. 103 be concurred in.

YARDLEY, Vice Chairman

Report adopted.

February 27, 1973

Mr. Speaker: We, your Committee on Judiciary, having had under consideration Senate Bill No. 23, respectfully report as follows: That Senate Bill No. 23 be amended on page 3, line 17 of the Senate Third Reading and Introduced Bill after the word and punctuation "predecessor." by inserting the new material "In counties of the first class the county commissioners may if they deem that the work load of the justices of peace so warrants establish additional justice courts in the county. Such additional justices of the peace shall have the same qualifications, shall be elected in the same manner, and have the same term as the original justice in the county. Provided, however, that the county commissioners may abolish any such court upon the end of the term of the justice holding such office and all unfinished business shall be transferred to another justice court in that county.", and

Be further amended on page 3, section 4, lines 18, 19, and 20 of the Senate Third Reading and Introduced Bill by deleting all of the material "[(2) A justice of the peace shall be nominated and elected on the non partisan judicial ballot in the same manner as are judges of the district court.]", and

Be further amended on page 3, section 4, line 25 and continued over to page 4, section 4, lines 1 through 3 of the Senate Third Reading and Introduced Bill by deleting after the word and punctuation "elected." the material "[A candidate may not file for more than one (1) office. Section 23-4511 prohibiting political party endorsement for judicial officers shall also apply to justices of the peace.]", and

Be further amended on pages 3 and 4, Section 4 of the Senate Third Reading and Introduced Bill by renumbering the subsections following subsection (1), and

Be further amended on page 4, section 4, subsection (b), lines 14 and 15 of the Senate Third Reading and Introduced Bill by deleting subsection (b) in its entirety, and

Be further amended on page 4, section 4, subsection (c), line 16 of the Senate Third Reading and Introduced Bill after the word "completed" by inserting the new material, "within preceeding six years.", and

Be further amended on page 4, section 4, subsection (c), line 19 of the Senate Third Reading and Introduced Bill after the word "is" by inserting the new material "elected or", and

Be further amended on page 5, section 5, lines 9 and 10 of the Senate Third Reading and Introduced Bill after the word and punctuation "services," by deleting the material "[not exceeding one hundred dollars per annum.]", and

Be further amended on page 5, section 6, line 18 of the Senate Third Reading and Introduced Bill by deleting the words "[justice holding the same.]" and inserting in lieu thereof the new material "county commissioners".

And as amended, be concurred in.

Report adopted.

HALL, Chairman

February 27, 1973

Mr. Speaker: We, your Committee on Natural Resources, having had under consideration Senate Bill No. 94, respectfully report as follows: That Senate Bill No. 94 be amended as follows in the Senate Third Reading Bill:

Amend the title on page 1, line 11 following the word and punctuation "clay," by striking the word and punctuation "[Bentonite,]"

Amend the title on page 1, line 13 after the punctuation";" and before the word "repealing" to add the following words and punctuation "Providing for affected acre fees; Providing for the termination of reclamation contracts entered into under Chapter 245, Laws of Montana, 1967;"

Amend page 25, Section 3, subsection (1), line 7 following the word and punctuation "Clay," by striking the word and punctuation "[Bentonite,]"

Amend page 27, Section 3, subsection (15), line 22 by adding a new subsection as follows "(16) 'Contour strip mining' means that strip mining method commonly carried out in areas of rough and hilly topography in which the coal or mineral seam outcrops along the side of the slope and entrance is made to the seam by excavating a bench or table cut at and along the site of the seam outcropping with the excavated overburden commonly being cast down the slope below the mineral seam and the operating bench;"

And further amend page 27, Section 3, subsection (16), line 23 by renumbering subsection "[(16)]" to read "[(17)]"

And further amend page 27, Section 3, subsection (17), line 25 by renumbering subsection "[(17)]" to read "[(18)]"

And further amend page 28, Section 3, subsection (17), line 2 following the word "Section" by adding the following words "as formed in the contour method of strip mining"

And further amend page 28, Section 3, subsection (18), line 3 by renumbering subsection "[(18)]" to read "[(19)]"

And further amend page 28, Section 4, subsection (3), line 17 by striking the word "[May]" and inserting in lieu thereof the word "Shall"

And further amend page 28, Section 4, subsection (4), line 20 by striking the word "[May]" and inserting in lieu thereof the word "Shall"

And further amend page 29, Section 5, subsection (5), line 12 by striking the word "[May]" and inserting in lieu thereof the word "Shall"

And further amend page 29, Section 5, subsection (5), line 12 following the word "Investigations" by striking the word "[or]" and inserting in lieu thereof the word "and"

And further amend page 29, Section 5, subsection (5), lines 12 and 13 following the word "Inspections" by striking the words "[Which are considered]"

And further amend page 30, Section 6, subsection (1), line 1 following the word "Application" and before the word "For" by adding the following words "and designated in the permit"

derson, Hageman, Hager, Hall, Halvorson, H. Harper, Hodges, Holmes, Holtz, Jacobsen, Johnston, Kendall, Kessner, Kvaalen, Lien, Lockrem, Lund, Lundgren, Marbut, Marks, Mercer, Nichols, Norman, Olson, Regan, Roberts, Rolfe, Schepens, Selstad, Shelden, Staigmillar, Stoltz, Swanberg, Turman, Ulmer, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 54.

Excused: None.

Absent or not voting: Kimble, Towe. Total 2.

Paired: Bardanouve—Nay, Cox—Aye; Hageman—Nay, Mehrens—Aye.

Thereupon, the motion to reconsider carried.

Fasbender, having voted on the prevailing side, moved to reconsider Senate Amendments to House Bill No. 142.

Motion carried.

Fasbender moved that the Speaker appoint a conference committee to meet with a like committee from the Senate to discuss Senate Amendments to House Bill No. 142.

Motion carried.

Bradley, having voted on the prevailing side, moved that the House reconsider its action in adopting on Second Reading, Senate Bill No. 207.

Motion failed.

FIRST READING AND COMMITMENT OF BILLS

The following bills were introduced, read first time and referred to Committee:

House Resolution No. 23, introduced by Tierney, Turman, Murphy, Bennetts: A resolution of the House of Representatives of the State of Montana to urge the President of the United States to reinstate funding for economic opportunity act programs. Referred to Committee on Constitution, Elections and Federal Relations.

House Bill No. 592, introduced by Marbut, Fasbender, Lund, Bardanouve: A bill for an act entitled: "An act for the codification and general revision of the laws relating to the Department of Institutions, and providing that this act is effective upon its passage and approval." Referred to Committee on State Administration.

House Bill No. 593, introduced by Marbut, Fasbender, Lund, Bardanouve: A bill for an act entitled: "An act for the codification and general revision of the laws relating to the Department of Social and Rehabilitation Services." Referred to Committee on State Administration.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Hall moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading under the rules of the previous sitting.

Motion carried.

Barrett in the Chair. Committee arose.

Mr. Speaker in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Senate Bill No. 249 be concurred in (54-17).

That Senate Bill No. 250 be concurred in (53-19).

That Senate Bill No. 275 be concurred in (71-3).

That Senate Bill No. 361 be concurred in (65-8).

That Senate Joint Resolution No. 14 be concurred in (80-0).

That Senate Joint Resolution No. 31 be concurred in (73-0).

That Senate Joint Resolution No. 34 be concurred in (73-2).

That Senate Joint Resolution No. 38 be concurred in (66-2).

That House Resolution No. 14 be adopted (68-0).

That House Resolution No. 15 be adopted (54-19).

That House Resolution No. 16 be adopted (74-1).

That Senate Bill No. 195 be concurred in (68-0).

That Senate Bill No. 408 be concurred in (82-0).

That Senate Bill No. 203 be concurred in (77-5).

That Senate Bill No. 23 be concurred in (59-25).

That Senate Bill No. 94 be amended on page 9, line 21 of the House amendments by showing that the word "feet" is deleted material. (77-0).

And as amended, be concurred in (97-0).

That Senate Bill No. 103 be amended on page 2 of the third reading bill, by deleting the word "[bodily]" and inserting the word "personal" (70-0).

And be further amended in section 3, page 3, line 4 of the third reading bill by adding the material "as defined herein" before the period (61-1).

And be further amended in section 3, third reading bill, line 23, page 3, by striking the word "[policy]" and inserting in lieu thereof the word "type" and on line 24, page 3 by adding before the period the words "as enumerated in the preceding paragraph." (64-0).

And further amend section 7, third reading bill, page 5, lines 3 and 4 by deleting the words "[or a political subdivision]" and further amend by adding at the beginning of line 11, page 5, the material "(2)", (68-0).

And as amended, be concurred in (81-0).

That Senate Bill No. 123, be concurred in (64-14).

That Senate Bill No. 124, be concurred in (76-3).

That Senate Bill No. 125, be concurred in (64-6).

That Senate Bill No. 126, be concurred in (81-1).

That Senate Bill No. 130, be concurred in (60-9).

That Senate Bill No. 131, be concurred in (71-0).

That Senate Bill No. 132, be concurred in (74-3).

That Senate Bill No. 134 be amended in line 13, page 6, by deleting the figure "[2]" in "1972" and inserting in lieu thereof the figure "4", making the date "1974" and further amend the title, after "1947" by insert-

House Bill No. 597, introduced by Baucus, Ulmer, Kimble, Regan: A bill for an act entitled: "An act appropriating one hundred twenty thousand dollars (\$120,000) from the general fund to the office of Ombudsman for the biennium ending June 30, 1975; and providing for other matters relating to the appropriation." Referred to Committee on Finance and Claims.

House Bill No. 598, introduced by Brand, Cox, Glennen, Staigmiller: A bill for an act entitled: "An act allowing policemen and highway patrolmen to secure Social Security coverage, amending sections 59-1102.1 and 59-1108, R.C.M. 1947." Referred to Committee on State Administration.

THIRD READING OF SENATE BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Hall moved that all Senate amendments be deemed read in full.

Motion carried.

Senate Amendments to House Bill No. 110 were concurred in by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Barrett, Baucus, Bell, Bradley, Brand, Brown, Burnett, Campbell, Castles, Cotton, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, Hall, Halvorson, Harper, H., Harper, R., Healy, Hodges, Holtz, Hubing, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lockrem, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Regan, Roberts, Selstad, Shelden, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 87.

Noes: Selstad, Ulmer. Total 2.

Excused: Holmes, Seifert. Total 2.

Absent or not voting: Bardanouve, Bennetts, Clemow, Colberg, Cox, Flynn, Forsgren, Roberts, Zimmer. Total 9.

Senate Amendments to House Bill No. 145 were concurred in by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Barrett, Baucus, Bell, Bradley, Brand, Brown, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, Halvorson, H., Harper, R., Healy, Hodges, Holtz, Hubing, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lockrem, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Regan, Roberts, Selstad, Shelden, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 82.

Noes: East, Hubing, Selstad, Ulmer. Total 4.

Excused: Holmes, Seifert. Total 2.

Absent or not voting: Bardanouve, Bennetts, Clemow, Cox, Flynn, Forsgren, Galt, Lien, Mercer, Shelden, Tierney, Zimmer. Total 12.

Senate Amendments to House Bill No. 253 were concurred in by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Barrett, Baucus, Bell, Bradley, Brand, Brown, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Galt, Glennen, Greely, Gunderson, Hageman, Haines, Hall, Halvorson, H., Harper, R., Healy, Hodges, Holtz, Hubing, Huennekens, Jacobsen, Jones, Kendall, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lockrem, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Regan, Roberts, Selstad, Shelden, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 90.

Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Galt, Greely, Gunderson, Hager, Haines, Hall, Halvorson, Harper, H., Harper, R., Healy, Hodges, Holtz, Hubing, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lockrem, Lombardi, Lucas, Lund, Lynch, McKittrick, Manuel, Marbut, Mehrens, Menahan, Murphy, Nichols, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Schye, Selstad, Shelden, Smith, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 84.

Noes: Ulmer. Total 1.

Excused: Holmes, Seifert. Total 2.

Absent or not voting: Bardanouve, Bennetts, Cox, Flynn, Forsgren, Glennen, Hageman, Kessner, Lien, Lundgren, Marks, Mercer, Zimmer. Total 13.

Senate Bill No. 23 was concurred in by the following vote:

Ayes: Aageson, Baeth, Baucus, Bell, Bradley, Brown, Burnett, Castles, Colberg, Cotton, Cox, Driscoll, East, Fagg, Fasbender, Fleming, Flynn, Greely, Gunderson, Haines, Hall, Halvorson, Harper, H., Harper, R., Hodges, Holtz, Huennekens, Jacobsen, Kessner, Kimble, Kolstad, Kvaalen, Lockrem, Lucas, Lund, Lundgren, McKittrick, Manuel, Norman, Prevost, Regan, Roberts, Selstad, Shelden, Staigmiller, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Warfield, Watt, Yardley. Total 54.

Noes: Ainsworth, Asbjornson, Barrett, Brand, Campbell, Clemow, Ellerd, Galt, Glennen, Hageman, Hager, Healy, Hubing, Johnston, Jones, Kendall, Kosena, Laas, Lee, Lien, Lombardi, Lynch, Manuel, Mehrens, Menahan, Mercer, Murphy, Olson, Quilici, Rolfe, Schepens, Schye, Smith, Stephens, Walborn. Total 35.

Excused: Holmes, Seifert. Total 2.

Absent or not voting: Bardanouve, Bennetts, Edland, Forsgren, Marbut, Marks, Ulmer, Zimmer, Mr. Speaker. Total 9.

Senate Bill No. 60 was concurred in by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Barrett, Baucus, Bell, Bradley, Brand, Brown, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, Halvorson, H., Harper, R., Healy, Hodges, Holtz, Hubing, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lockrem, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Regan, Roberts, Rolfe, Schepens, Schye, Selstad, Shelden, Smith, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 90.

Noes: None.

Excused: Holmes, Seifert. Total 2.

Absent or not voting: Bardanouve, Bennetts, Forsgren, Hall, Marbut, Marks, Ulmer, Zimmer. Total 8.

Senate Bill No. 83 was concurred in by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Barrett, Baucus, Bell, Bradley, Brand, Brown, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Fagg, Fasbender, Fleming, Flynn, Galt, Glennen, Greely, Gunderson, Hageman, Haines, Hall, Halvorson, H., Harper, R., Healy, Hodges, Holtz, Hubing, Huennekens, Jacobsen, Jones, Kendall, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lockrem, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Regan, Roberts, Selstad, Shelden, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 90.

MONTANA SENATE

REGULAR SESSION

ROLL CALL

1973 LEGISLATURE

Vote #1

YEAS	N-V	NAYS
Aber	(D)	
Bennett	(R)	
Bertsche	(D)	
Bollinger	(D)	
Boylan	(D)	
Breeden	(R)	
Broeder	(R)	
Carl	(R)	
Cochrane	(R)	
Darrow	(R)	
Deschamps	(R)	
Devine	(D)	
DeWolf	(D)	
Drake	<i>1/2</i>	

YEAS	N-V	NAYS
Flynn	(D)	
Gilfeather	(D)	
Goodheart	(D)	
Graham	(D)	
Groff	(D)	
Hall	(D)	
Harrison	(R)	
Hazelbaker	(R)	
Himsl	(R)	
James	(D)	
Jensen	(D)	
Keenan	(D)	
Klindt	(R)	
Lowe	(R)	

YEAS	N-V	NAYS
Lynch	(D)	
Manning	(D)	
Mathers	(R)	
McCallum	(R)	
McDonald	(D)	
McGowan	(D)	
McKeon	(D)	
McNamer	(R)	
McOmber	(D)	
Moore	(R)	
Moritz	(R)	
Nees	(D)	
Northey	(R)	
Rosell	(R)	

YEAS	N-V	NAYS
Shea	(D)	
Siderius	(D)	
Sorensen	(D)	
Story	(R)	
Thiessen	(D)	
Turnage	(R)	
Vainio	(D)	
Zody	(D)	
Mr. President		

SB 23 3rd rdg

Ayes 49 Noes 0 Ex 1 Abs 0

49 TOTALS *0*

SEN BILL NUMBER *23*

DATE

YEAS	N-V	NAYS
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

HOUSE	BILL
SENATE	RESO.
1000 100	10 1
2000 200	20 2
3000 300	30 3
4000 400	40 4
J't. 500	50 5
Conc. 600	60 6
Emer. 700	70 7
3rd R 800	80 8
Quo. 900	90 9
MOT 000	00 0

DATE
1
Jan. 2
Feb. 3
Mar. 1
Apr. 2
May 3
June 4
July 5
Aug. 6
Sept. 7
Oct. 8
Nov. 9
Dec. 0

MONTANA SENATE

REGULAR SESSION

ROLL CALL

1973 LEGISLATURE

VOTE #2

YEAS N-V NAYS
 Aber (D)
 Bennett (R)
 Bertsche (D)
 Bollinger (D)
 Boylan (D)
 Breeden (R)
 Broeder (R)
 Carl (R)
 Cochrane (R)
 Darrow (R)
 Deschamps (R)
 Devine (D)
 DeWolf (D)
 Drake (R)

YEAS N-V NAYS
 Flynn (D)
 Gilfeather (D)
 Goodheart (D)
 Graham (D)
 Groff (D)
 Hall (D)
 Harrison (R)
 Hazelbaker (R)
 Himsi (R)
 James (D)
 Jensen (D)
 Keenan (D)
 Klindt (R)
 Lowe (R)

YEAS N-V NAYS
 Lynch (D)
 Manning (D)
 Mathers (R)
 McCallum (R)
 McDonald (D)
 McGowan (D)
 McKeon (D)
 McNamer (R)
 McOmber (D)
 Moore (R)
 Moritz (R)
 Nees (D)
 Northey (R)
 Rosell (R)

YEAS N-V NAYS
 Shea (D)
 Siderius (D)
 Sorensen (D)
 Story (R)
 Thiessen (D)
 Turnage (R)
 Vainio (D)
 Zody (D)

Mr. President

Mar. 3 - Comm. of Whole rejects
 House amendments, Conf.
 Comm. appt'd.

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CC HASB-23

3rd Rdy

Yeas 48

Nays 0

Abs 0

Ex 2

48

TOTALS 0

Conf. Comm. Rpt. HATS SEN. BILL NUMBER 23

YEAS
 100-200
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 1 1
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N-V
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 9 9

NAYS
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 0 0
 1 1
 2 2
 3 3
 4 4
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 6 6
 7 7
 8 8
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HOUSE
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 1000 100
 2000 200
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 4000 400
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 Conc. 600
 Emer. 700
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 Quo. 900
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BILL
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 10 1
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 80 8
 90 9
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DATE
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 Jan. 2
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 Mar. 1
 Apr. 2
 May 3
 June 4
 July 5
 Aug. 6
 Sept. 7
 Oct. 8
 Nov. 9
 Dec. 0

SB 23

59-25

1st

15th

2nd
STATE OF MONTANA

3-1-73

HOUSE OF REPRESENTATIVES

1973 - 1974

VOTE TABULATION

838173

SB23

CALL

MOTION

59	AYE	25	NAY	17	ABSENT
AYE	Aageson, Dave	NAY	Hager, Tom	AYE	Marks, Robert L. (Bob)
AYE	Ainsworth, A. L. (Bud)	AYE	Haines, Tom	ABS	Mehrens, John "Sandy"
NAY	Asbjornson, R. O. "Boots"	AYE	Hall, John C.	ABS	Menahan, William "Red"
AYE	Baeth, William R. (Bill)	AYE	Halvorson, Ora J.	NAY	Mercer, Wallace W. (Wally)
AYE	Bardanouve, Francis	AYE	Harper, Hal	NAY	Murphy, John
AYE	Barrett, Fred D.	ABS	Harper, Robert J. "Bob"	ABS	Nichols, Norris
AYE	Baucus, Max S.	NAY	Healy, John E. (Jack)	AYE	Norman, Bill
AYE	Bell, John F.	AYE	Hodges, William C.	NAY	Olson, S. A.
AYE	Bennetts, Barbara K.	AYE	Holmes, Mrs. Polly	AYE	Prevost, Robert C.
AYE	Bradley, Dorothy M.	AYE	Holtz, Malcolm E.	NAY	Quilici, Joe
ABS	Brand, Joe	NAY	Hubing, Lee	AYE	Regan, Ann K. "Pat"
ABS	Brown, Robert J. (Bob)	AYE	Huennekens, Herb	AYE	Roberts, Joe R.
AYE	Burnett, James H. "Jim"	AYE	Jacobsen, Glenn	NAY	Rolfe, Tom
AYE	Campbell, William C.	NAY	Johnston, George R.	NAY	Schepens, Henry J.
AYE	Castles, Ruth B.	NAY	Jones, Tom L.	AYE	Schye, Elmer
NAY	Clemow, Tom	AYE	Kendall, Orin P.	AYE	Seifert, Carl A.
AYE	Colberg, Richard A.	AYE	Kessner, Jack E.	AYE	Selstad, Tom
AYE	Cotton, Robert S.	AYE	Kimble, Gary	AYE	Shelden, Arthur H.
ABS	Cox, Henry S. "Hank"	AYE	Kolstad, Allen C.	NAY	Smith, Carl M.
AYE	Driscoll, John B.	NAY	Kosena, Albert E. (Al)	AYE	Staigmillar, John B.
AYE	East, Vic	AYE	Kvaalen, Oscar S.	ABS	Stephens, Robert E.
ABS	Edland, Wallace B.	NAY	Laas, Walter	AYE	Stoltz, Gail
AYE	Ellerd, Robert A.	NAY	Lee, Robert E. (Bob)	ABS	Swanberg, Gorham E.
ABS	Fagg, Harrison G.	NAY	Lien, Orphey "Bud"	AYE	Tierney, John F.
ABS	Fasbender, Larry	ABS	Lockrem, Lloyd C., Jr.	AYE	Towe, Thomas E.
AYE	Fleming, James F., Jr.	NAY	Lombardi, Jerry V.	AYE	Turman, George
ABS	Flynn, James W.	AYE	Lucas, James P.	AYE	Turner, Clyde A.
AYE	Forsgren, Wallace O.	AYE	Lund, Art	AYE	Ulmer, Walter J.
NAY	Galt, Jack E.	ABS	Lundgren, Conrad F.	NAY	Walborn, John E.
AYE	Gerke, Harold E.	NAY	Lynch, John "J.D."	AYE	Warfield, Bill
NAY	Glennen, Robert E.	AYE	McKittrick, Pat	AYE	Watt, Robert D.
AYE	Greely, Michael T.	NAY	Manuel, Rex	AYE	Yardley, Dan
AYE	Gunderson, Jack	AYE	Marbut, Gary R.	NAY	Zimmer, William (Bill)
AYE	Hageman, Alvin			ABS	Mr. Speaker

SB 23

59 AYE

2nd

3-1-73

1st
15th

99

SB 23

54-35

2 ref

9 also

3rd
STATE OF MONTANA

3-2-73

HOUSE OF REPRESENTATIVES

1973 - 1974

BEST COPY
AVAILABLE

VOTE TABULATION

038273

SB623

CALL

MOTION

54	AYE	55	NAY	56	ABSENT
AYE	Aageson, Dave	AYE	Hager, Tom	AYE	Marks, Robert L. (Bob)
AYE	Ainsworth, A. L. (Bud)	AYE	Haines, Tom	AYE	Mehrens, John "Sandy"
AYE	Asbjornson, R. O. "Boots"	AYE	Hall, John C.	AYE	Menahan, William "Red"
AYE	Baeth, William R. (Bill)	AYE	Halvorson, Ora J.	AYE	Mercer, Wallace W. (Wally)
AYE	Bardanoue, Francis	AYE	Harper, Hal	AYE	Murphy, John
AYE	Barrett, Fred D.	AYE	Harper, Robert J. "Bob"	AYE	Nichols, Norris
AYE	Baucus, Max S.	AYE	Healy, John E. (Jack)	AYE	Norman, Bill
AYE	Bell, John F.	AYE	Hodges, William C.	AYE	Olson, S. A.
AYE	Bennetts, Barbara K.	AYE	Holmes, Mrs. Polly	AYE	Prevost, Robert C.
AYE	Bradley, Dorothy M.	AYE	Holtz, Malcolm E.	AYE	Quilici, Joe
AYE	Brand, Joe	AYE	Hubing, Lee	AYE	Regan, Ann K. "Pat"
AYE	Brown, Robert J. (Bob)	AYE	Huennekens, Herb	AYE	Roberts, Joe R.
AYE	Burnett, James H. "Jim"	AYE	Jacobsen, Glenn	AYE	Rolfe, Tom
AYE	Campbell, William C.	AYE	Johnston, George R.	AYE	Schepens, Henry J.
AYE	Castles, Ruth B.	AYE	Jones, Tom L.	AYE	Schye, Elmer
AYE	Clemow, Tom	AYE	Kendall, Orin P.	AYE	Seitert, Carl A.
AYE	Colberg, Richard A.	AYE	Kessner, Jack E.	AYE	Selstad, Tom
AYE	Cotton, Robert S.	AYE	Kimble, Gary	AYE	Shelden, Arthur H.
AYE	Cox, Henry S. "Hank"	AYE	Kolstad, Allen C.	AYE	Smith, Carl M.
AYE	Driscoll, John B.	AYE	Kosena, Albert E. (Al)	AYE	Staigmillier, John B.
AYE	East, Vic	AYE	Kvaalen, Oscar S.	AYE	Stephens, Robert E.
AYE	Edland, Wallace B.	AYE	Laas, Walter	AYE	Stoltz, Gail
AYE	Ellerd, Robert A.	AYE	Lee, Robert E. (Bob)	AYE	Swanberg, Gorham E.
AYE	Fagg, Harrison G.	AYE	Lien, Orphey "Bud"	AYE	Tierney, John F.
AYE	Fasbender, Larry	AYE	Lockrem, Lloyd C., Jr.	AYE	Towe, Thomas E.
AYE	Fleming, James F., Jr.	AYE	Lombardi, Jerry V.	AYE	Turman, George
AYE	Flynn, James W.	AYE	Lucas, James P.	AYE	Turner, Clyde A.
AYE	Forsgren, Wallace O.	AYE	Lund, Art	AYE	Ulmer, Walter J.
AYE	Galt, Jack E.	AYE	Lundgren, Conrad F.	AYE	Walborn, John E.
AYE	Gerke, Harold E.	AYE	Lynch, John J.D.	AYE	Warfield, Bill
AYE	Glennen, Robert E.	AYE	McKittrick, Pat	AYE	Watt, Robert D.
AYE	Greely, Michael T.	AYE	Manuel, Rex	AYE	Yardley, Dan
AYE	Gunderson, Jack	AYE	Marbut, Gary R.	AYE	Zimmer, William (Bill)
AYE	Hageman, Alvin	AYE		AYE	Mr. Speaker

SB 23

54 Aye

3rd

3-2-73

2%

100

that a Conference Committee be appointed from the House to meet with a like committee from the Senate to confer on said amendments.

The Speaker appointed the following:

Representative Mehrens, Chairman

Representative Gunderson

Representative Glennen

Respectfully,

ED SMITH
Chief Clerk

March 2, 1973

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the following House Bills were this day read three several times and passed, title and history agreed to, and the bills are herewith transmitted to the Senate for concurrence:

House Bill No. 532 introduced by Towe, Huennekens, et al

House Bill No. 513 introduced by Fasbender

House Bill No. 506 introduced by Fasbender

Respectfully,

ED SMITH
Chief Clerk

March 2, 1973

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the following Senate Bills were this day read three several times at length and concurred in as amended, title and history agreed to, and the said bills are herewith returned to the Senate for concurrence in House amendments.

Senate Bill No. 356 introduced by McNamer

Senate Bill No. 408 introduced by McDonald and McNamer

Senate Bill No. 341 introduced by McNamer

Senate Bill No. 195 introduced by Himsl and Manning

Senate Bill No. 124 introduced by Siderius

Senate Bill No. 112 introduced by Klindt, Graham, et al

Senate Bill No. 104 introduced by James and Himsl

Senate Bill No. 83 introduced by Lynch

Senate Bill No. 60 introduced by Groff, Manning, et al

Senate Bill No. 23 introduced by Moore and Lynch (by request)

Senate Bill No. 276 introduced by Goodheart and Keenan

Respectfully,

ED SMITH
Chief Clerk

MOTIONS AND RESOLUTIONS

Upon motion of Senator Deschamps, duly carried, that Senate Bill No. 453 be taken from Third Reading and be rereferred to the Committee on Executive Reorganization.

Senator Lynch moved that the President be authorized to appoint a Conference Committee of three members to meet with a like committee from the House to confer on Senate Amendments to House Bill No. 78. Motion carried.

The President appointed the following committee:

Senator Keenan, Chairman

Senator Jensen

Senator Breeden

Senator Lynch moved that the President be authorized to appoint a Conference Committee of three members to meet with a like committee from the House to confer on Senate Amendments to House Bill No. 142. Motion carried.

The President appointed the following committee:

Senator Boylan, Chairman

Senator Vainio

Senator McCallum

Senator Lynch moved that the President be authorized to appoint a Conference Committee of three members to meet with a like committee from the House to confer on Senate Amendments to House Bill No. 368. Motion carried.

The President appointed the following committee:

Senator McKeon, Chairman

Senator Zody

Senator Turnage

The following resolution was received and read:

SENATE RESOLUTION NO. 27

INTRODUCED BY SORENSON, DeWOLFE, McCALLUM, LYNCH
GILFEATHER

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA TO URGE THE PRESIDENT OF THE UNITED STATES TO REINSTATE FUNDING FOR ECONOMIC OPPORTUNITY ACT PROGRAMS.

WHEREAS, the impoundment of funds for the development of human resources through programs for the elderly, child development, housing, rural electrification and conservation efforts, manpower development, health services, and education seriously jeopardizes successful efforts for community development and citizen participation, and

WHEREAS, the appropriations for continuation of the Economic Opportunity Act for 1973 and 1974 which were authorized by the Congress of the United States and signed by the President, have also been impounded, and

101

WHEREAS, the fulfillment of the intent of the Economic Opportunity Act for a local-state-federal partnership has thus been thwarted, and

WHEREAS, the social and economic impact on the state of Montana through the loss of community development programs will be serious, and

WHEREAS, the abrupt termination of these programs precludes opportunities for local governments to assume responsibility for them, and

WHEREAS, the administration's decision to terminate such programs, in relation to their effectiveness is in direct contradiction to the administration's own study conducted in January, 1973, and

WHEREAS, the text of that study indicated that community action agencies are already producing highly constructive mission results in both urban and rural communities and the trends indicate that continued effort in this direction will produce substantially greater results on a small investment, and

WHEREAS, the total resources mobilized from all sources by community action agency programs exceed the total local initiative funding for 1972.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the President of the United States be respectfully requested to reinstate the extension of the economic opportunity act in its entirety, and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to President Richard M. Nixon, the secretary of health, education and welfare, Senators Mike Mansfield and Lee Metcalf, and Representatives John Melcher and Richard Shoup.

Referred to Committee on Constitution, Elections and Federal Relations.

INTRODUCTION OF HOUSE BILLS

The following House bills were introduced, posted and referred:

House Bill No. 506, introduced by Fasbender: A bill for an act entitled: "An act amending Section 69-3923, R.C.M. 1947; providing that air pollution facilities, machinery or equipment shall be classified as Class 7 property for purposes of taxation for a period not to exceed [three (3)] seven (7) years; providing a method for applying for that classification; providing for the withdrawal of such classification upon noncompliance with the provisions of the "Clean Air Act of Montana"; and providing an effective date." Referred to Committee on Taxation.

House Bill No. 513, introduced by Fasbender: A bill for an act entitled: "An act to amend Section 84-1501, R.C.M. 1947, by reinstating a provision pertaining to an alternative method of complying with Montana's corporation license tax which was inadvertently deleted by Section 1, Chapter 7, Second Extraordinary Session of the Laws of the Forty-second Legislative Assembly." Referred to Committee on Taxation.

House Bill No. 532, introduced by Towe, Huennekens, Colberg, Holmes, R. Harper, Tierney: A bill for an act entitled: "An act to amend Section 84-301, R.C.M. 1947, relating to taxation and classification of rights of entry." Referred to Committee on Taxation.

BUSINESS ON SECOND READING

Upon motion of Senator Lynch, duly carried, the Senate resolved itself

into a Committee of the Whole for the consideration of Business on Second Reading.

Senator Northey in the Chair. Committee arose.

Senate resumed. President Christiansen presiding.

The Committee of the Whole submitted the following report:

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

That consideration of Senate Bill No. 452 be passed. Unanimously passed.

That Senate Bill No. 457 do pass. Unanimously passed.

That Senate Resolution No. 13 be adopted. Opposed by Aber, Bennett, Breeden, Broeder, Cochrane, Himsl, Klindt, Mathers, Moore, Moritz, Rosell, Story, Turnage.

That House Bill No. 21 be concurred in. Unanimously concurred in.

That House Bill No. 68 be concurred in. Opposed by Aber, Carl, Deschamps, Harrison, Hazelbaker, Klindt, McCallum, Moore.

That House Bill No. 99 be concurred in. Unanimously concurred in.

That consideration of House Bill No. 108 be passed. Unanimously passed.

That House Bill No. 167 be concurred in. Unanimously concurred in.

That House Bill No. 168 be concurred in. Unanimously concurred in.

That House Bill No. 329 be concurred in. Unanimously concurred in.

That House Bill No. 346 be concurred in. Unanimously concurred in.

That House Bill No. 352 be concurred in. Unanimously concurred in.

That House Bill No. 427 be concurred in. Unanimously concurred in.

That House Bill No. 543 be concurred in. Unanimously concurred in.

That House Joint Resolution No. 14 be concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 23 be not concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 60 be concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 83 be concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 104 be concurred in. Unanimously concurred in.

That consideration of House Amendments to Senate Bill No. 112 be passed. Opposed by Gilfeather, Shea, Darrow.

That House Amendments to Senate Bill No. 124 be not concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 195 be concurred in. Unanimously concurred in.

SENATE BILL 23

JOINT CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND SPEAKER OF THE HOUSE:

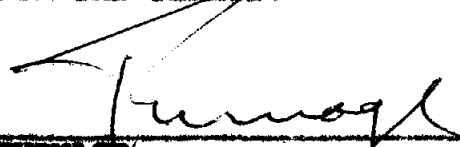
We, your Joint Senate and House Conference Committee on Senate Bill No. 23, beg leave to report as follows:

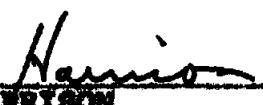
That we met Tuesday, March 13 and considered House Committee on Judiciary amendments of February 28, 1973 to Senate Bill No. 23. This Joint Conference Committee recommends as follows:

That the House recede from all of the House Committee on Judiciary amendments of February 28, 1973.

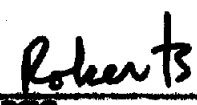
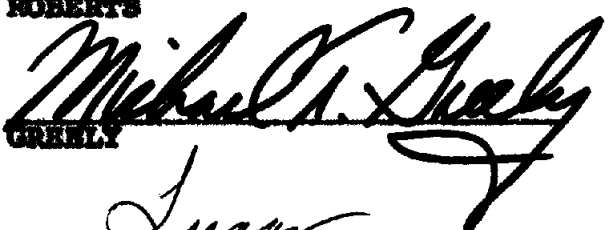
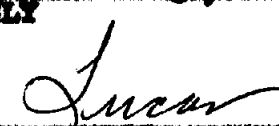
That Senate Bill No. 23 be concurred in without the House Committee on Judiciary amendments.

FOR THE SENATE:


TURNAGE

HALL

HARRISON

FOR THE HOUSE:


ROBERTS

GREENLY

LUCAS

Senate Journal - Special Session
43rd Legislative Assembly
FIFTH LEGISLATIVE DAY - March 14, 1973 69

March 13, 1973

Mr. President and Speaker of the House:

We, your Joint Senate and House Conference Committee on Senate Bill No. 23, beg leave to report as follows:

That we met Tuesday, March 13 and considered House Committee on Judiciary amendments of February 28, 1973 to Senate Bill No. 23. This Joint Conference Committee recommends as follows:

That the House recede from all of the House Committee on Judiciary amendments of February 28, 1973.

That Senate Bill No. 23 be concurred in without the House Committee on Judiciary amendments.

For the Senate: TURNAGE
HALL
HARRISON

For the House: ROBERTS
GREELY
LUCAS

Conference Committee Report placed on Second Reading this day.

March 15, 1973

To the President of the Senate and the Speaker of the House:

We, your Joint Senate and House Conference Committee on Senate Bill No. 129, third reading, blue copy bill, beg leave to report as follows:

That we met this day and considered Senate Bill No. 129, third reading, blue copy bill, and recommend as follows:

That Senate Bill No. 129, third reading, blue copy bill, be amended on page 1, lines 20 and 21, after "exceed" and before "the" by striking the material "sixty-six and two-thirds percent (66 2/3%)" and inserting in lieu thereof the following material:

one hundred ten dollars (\$110) beginning July 1, 1973. Beginning July 1, 1974, the maximum weekly compensation benefits shall not exceed

And that Senate Bill No. 129, as so amended, be concurred in.

For the Senate: McKEON
GOODHEART

For the House: BAETH
BAUCUS
TURMAN

Conference Committee Report placed on Second Reading this day.

Mr. President and Speaker of the House:

We, your Joint House and Senate Conference Committee, having had under consideration Senate Committee on Judiciary amendment to House Bill No. 368, beg leave to report as follows:

That the House accede to the proposed Committee on Judiciary amendment to House Bill No. 368, dated February 26, 1973 and the Joint Conference Committee recommends the bill be amended as follows:

Amend line 4 of the Senate amendment by deleting the word "requiring" and inserting in lieu thereof the word "permitting"

SENATE JOURNAL—SPECIAL SESSION
FORTY-THIRD LEGISLATIVE ASSEMBLY

three to meet with a like committee from the House to confer on House Bill No. 211.

The President appointed the following:

Senator Vainio, Chairman
Senator Sorenson
Senator Himsl

Upon motion of Senator Lynch that the President be authorized to appoint a Free Conference Committee of three to meet with a like committee from the House to confer on House Bill No. 334. Motion carried.

The President appointed the following:

Senator Bertsche, Chairman
Senator James
Senator Broeder

Upon motion of Senator Lynch, duly carried, that the Joint Conference Committee on House Amendments to Senate Bill No. 178 be dissolved and the President be authorized to appoint a Free Conference Committee of three to meet with a like committee from the House to confer on Senate Bill No. 178.

The President appointed the following:

Senator Keenan, Chairman
Senator Siderius
Senator Breeden

Upon motion of Senator Lynch, duly carried, that the Rules Committee ruled that the following bills are properly before this body and may be considered on Second and Third Reading this day:

Senate Bills Nos. 72 and 54, House Bills Nos. 477, 55, 56, 57, 97, 217, 350, 466, House Amendments to Senate Bills Nos. 40, 51, 183, 254, 454, Conference Committee Report on House Amendments to Senate Bills Nos. 383, 23, 129, Free Conference Committee Report on Senate Bill No. 124, Senate Amendments to House Bills Nos. 368, 357 and Free Conference Committee Report on House Bill No. 211 on Second Reading and House Amendments to Senate Bill No. 343 and Conference Committee Reports on House Amendments to Senate Bill No. 363 on Third Reading.

INTRODUCTION OF SENATE BILLS

The following Senate Bill was introduced, read and referred:

Senate Bill No. 474, introduced by Thiessen and Mathers: A bill for an act entitled: "An act amending Section 75-7001, R.C.M. 1947, defining an eligible transportee on a school bus as at least five (5) years of age." Referred to Committee on Rules.

INTRODUCTION OF HOUSE BILLS

The following House Bill was introduced, read and referred:

House Bill No. 593, introduced by Marbut, Fasbender, Lund, Bardanoue: A bill for an act entitled: "An act for the codification and general revision of the laws relating to the Department of Social and Rehabilitation Services." Referred to Committee on Rules.

BUSINESS ON SECOND READING

Upon motion of Senator Lynch, duly carried, the Senate resolved itself

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Conf. Com. Report

SB 23

71-22

1 ex
6 abs

STATE OF MONTANA

3-16-73

HOUSE OF REPRESENTATIVES

1973 - 1974

BEST COPY
AVAILABLE

VOTE TABULATION

035.673

SH823

CALL

MOTION

YES	AYE	NO	NAY	YES	ABSENT
AYE	Aageson, Dave	NO	Hager, Tom	AYE	Marks, Robert L. (Bob)
AYE	Ainsworth, A. L. (Bud)	AYE	Haines, Tom	AYE	Mehrens, John "Sandy"
AYE	Asbjornson, J. O. "Boots"	AYE	Hall, John C.	AYE	Menahan, William "Red"
NO	Baeth, William R. (Bill)	NO	Halvorson, Ora J.	NO	Mercer, Wallace W. (Wally)
NO	Bardanouve, Francis	AYE	Harper, Hal	NO	Murphy, John
NO	Barrett, Fred O.	AYE	Harper, Robert J. "Bob"	AYE	Nichols, Norris
NO	Baucus, Max S.	NO	Healy, John E. (Jack)	NO	Norman, Bill
AYE	Bell, John F.	AYE	Hodges, William C.	AYE	Olson, S. A.
AYE	Bennetts, Barbara K.	AYE	Holmes, Mrs. Polly	AYE	Prevost, Robert C.
NO	Bradley, Dorothy M.	AYE	Holtz, Malcolm E.	AYE	Quilici, Joe
NO	Brand, Joe	AYE	Hubing, Lee	AYE	Regan, Ann K. "Pat"
NO	Brown, Robert J. (Bob)	NO	Huennekens, Herb	AYE	Roberts, Joe R.
AYE	Burnett, James H. "Jim"	AYE	Jacobsen, Glenn	AYE	Rolfe, Tom
AYE	Campbell, William C.	AYE	Johnston, George R.	AYE	Schepens, Henry J.
AYE	Castles, Ruth B.	AYE	Jones, Tom L.	NO	Schye, Elmer
AYE	Clemow, Tom	NO	Kendall, Orin P.	AYE	Seifert, Carl A.
NO	Colberg, Richard A.	AYE	Kessner, Jack E.	AYE	Selstad, Tom
NO	Cotton, Robert S.	AYE	Kimble, Gary	AYE	Shelden, Arthur H.
AYE	Cox, Henry S. "Hank"	AYE	Kolstad, Allen C.	AYE	Smith, Carl M.
NO	Driscoll, John B.	AYE	Kosena, Albert E. (Al)	AYE	Staigmiller, John B.
AYE	East, Vic	AYE	Kvaalen, Oscar S.	AYE	Stephens, Robert E.
NO	Edland, Wallace B.	AYE	Laas, Walter	AYE	Stoltz, Gail
NO	Ellerd, Robert A.	AYE	Lee, Robert E. (Bob)	AYE	Swanberg, Gorham E.
AYE	Fagg, Harrison G.	NO	Lien, Orpheus "Bud"	NO	Tierney, John F.
AYE	Fasbender, Larry	NO	Lockrem, Lloyd C., Jr.	NO	Towe, Thomas E.
AYE	Fleming, James F., Jr.	NO	Lombardi, Jerry V.	AYE	Turman, George
AYE	Flynn, James W.	AYE	Lucas, James P.	AYE	Turner, Clyde A.
AYE	Forsgren, Wallace O.	AYE	Lund, Art	AYE	Ulmer, Walter J.
AYE	Galt, Jack E.	AYE	Lundgren, Conrad F.	AYE	Walborn, John E.
NO	Gerke, Harold E.	AYE	Lynch, John "J.D."	AYE	Warfield, Bill
AYE	Glennen, Robert E.	NO	McKittrick, Pat	AYE	Watt, Robert D.
AYE	Greely, Michael T.	AYE	Manuel, Rex	AYE	Yardley, Dan
AYE	Gunderson, Jack	NO	Marbut, Gary R.	NO	Zimmer, William (Bill)
AYE	Hageman, Alvin	AYE		AYE	Mr. Speaker

SB 23

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HOUSE JOURNAL—SPECIAL SESSION FORTY-THIRD LEGISLATIVE ASSEMBLY

Free Conference Committee on Senate Bill No. 431: Prevost, chairman; Hageman, Bell.

Conference Committee on House Bill No. 357: Lee, chairman; Baeth, Aageson.

Conference Committee on House Amendments to Senate Bill No. 178: Healy, chairman; Hodges, Mercer.

Conference Committee on House Amendments to Senate Bill No. 109: Hall, chairman; Baucus, Lucas.

Free Conference Committee on House Bill No. 211: Towe, chairman; Greely, Lucas.

Fasbender moved that the House adjourn until 1:30 p.m., March 16, 1973.

Motion carried.

House adjourned.

ED SMITH, Chief Clerk

HAROLD E. GERKE, Speaker

FIFTH SPECIAL SESSION LEGISLATIVE DAY

House of Representatives
Helena, Montana

March 16, 1973

House convened pursuant to adjournment at 1:30 p.m.

Mr. Speaker in the Chair.

Invocation by the Chaplain and Pledge of Allegiance to the Flag.

On Roll Call all members present except Lundgren, excused.

Quorum present.

Mr. Speaker: We, your Committee on Bills and Journal, having examined the daily journal for the Fourth Legislative Day, Special Session, find the same to be correct.

QUILICI, Chairman

REPORTS OF STANDING COMMITTEES

March 16, 1973

Mr. Speaker: We, your Committee on Constitution, Elections and Federal Relations having had under consideration House Resolution No. 36, respectfully report as follows: That House Resolution No. 36 be amended on page 1, line 17, of the original bill by adding an "s" on the word "person" and

Further amend on page 3, line 3, of the original bill after the words "sent to" add the following language "President Richard M. Nixon,"

And as amended, do pass.

LOMBARDI, Chairman

Report adopted.

March 16, 1973

Mr. Sneaker: We, your Committee on Highways and Transportation,

having had under consideration House Resolution No. 31, respectfully report as follows: That House Resolution No. 31 do pass.

LAAS, Chairman

Report adopted.

March 16, 1973

Mr. Speaker: We, your Committee on Rules having had under consideration the introduction and consideration of bills and resolutions recommend the following: That all House Bills and Resolutions and Senate Bills and Resolutions received by the Senate subsequent to the 60th legislative day may be reviewed by the Rules Committee prior to referral to a committee.

Be adopted.

FASBENDER, Chairman

Report adopted.

March 16, 1973

Mr. Speaker: We, your Committee on Highways and Transportation, having had under consideration Senate Bill No. 198, respectfully report as follows: That Senate Bill 198 be not concurred in.

LAAS, Chairman

Report adopted by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Barrett, Baucus, Bell, Bennetts, Bradley, Brand, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, East, Fagg, Fasbender, Fleming, Flynn, Forsgren, Glennen, Gunderson, Hageman, Hager, Hall, Halvorson, R. Harper, Healy, Hodges, Holmes, Holtz, Hubing, Jacobsen, Johnston, Jones, Kendall, Kessner, Kolstad, Kosen, Kvaalen, Laas, Lee, Lien, Lockrem, Lombardi, Lucas, Lynch, McKittrick, Manuel, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Quilici, Regan, Rolfe, Schepens, Schye, Seifert, Selstad, Shelden, Smith, Staigmler, Stephens, Swanberg, Tierney, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 82.

Noes: Galt, Greely, H. Harper, Marbut. Total 4.

Excused: Lundgren. Total 1.

Absent or not voting: Bardanouve, Brown, Driscoll, Edland, Ellerd, Haines, Huennkens, Kimble, Lund, Roberts, Stoltz, Towe, Zimmer. Total 13.

REPORTS OF SELECT COMMITTEES

March 13, 1973

Senate Bill 23

JOINT CONFERENCE COMMITTEE REPORT

Mr. President and Speaker of the House:

We, your Joint Senate and House Conference Committee on Senate Bill No. 23, beg leave to report as follows:

That we met Tuesday, March 13 and considered House Committee on Judiciary amendments of February 28, 1973 to Senate Bill No. 23. This Joint Conference Committee recommends as follows:

That the House recede from all of the House Committee on Judiciary amendments of February 28, 1973.

That Senate Bill No. 23 be concurred in without the House Committee on Judiciary amendments.

FOR THE HOUSE:

ROBERTS
GREELY
LUCAS

FOR THE SENATE:

TURNAGE
HALL
HARRISON

Greely moved for adoption of the Conference Committee report and that the committee be dissolved.

As a substitute motion, Towe moved that the Conference Committee report be not adopted, that the committee be dissolved and that the Speaker appoint a new conference committee.

The substitute motion failed by the following vote:

Ayes: Baeth, Barrett, Baucus, Bennetts, Bradley, Brand, Brown, Colberg, Cotton, Driscoll, Fagg, Hager, Healy, Hodges, Holmes, Hubing, Huennekens, Jones, Kimble, Lien, Lockrem, Lombardi, Lund, McKittrick, Marbut, Mercer, Murphy, Norman, Seifert, Tierney, Towe, Turman, Turner, Zimmer. Total 34.

Noes: Aageson, Ainsworth, Asbjornson, Bell, Burnett, Campbell, Castles, Clemow, Cox, East, Ellerd, Fasbender, Fleming, Flynn, Forsgren, Galt, Glennen, Greely, Gunderson, Hageman, Haines, Hall, H. Harper, R. Harper, Holtz, Jacobsen, Johnston, Kendall, Kessner, Kolstad, Kosena, Kvaalen, Laas, Lee, Lucas, Lynch, Manuel, Marks, Mehrens, Menahan, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Selstad, Shelden, Smith, Staigmillier, Stephens, Stoltz, Swanberg, Ulmer, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 60.

Excused: Lundgren. Total 1.

Absent or not voting: Bardanouve, Edland, Halvorson, Nichols, Schye. Total 5.

The Conference Committee Report was then adopted by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Bell, Bennetts, Burnett, Campbell, Castles, Clemow, Cox, Driscoll, East, Fagg, Fasbender, Fleming, Flynn, Forsgren, Galt, Glennen, Greely, Gunderson, Hageman, Haines, Hall, H. Harper, R. Harper, Hodges, Holmes, Holtz, Hubing, Jacobsen, Johnston, Jones, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lucas, Lund, Lynch, Manuel, Marks, Mehrens, Menahan, Nichols, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Seifert, Selstad, Shelden, Smith, Staigmillier, Stephens, Stoltz, Swanberg, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 71.

Noes: Baeth, Bardanouve, Barrett, Baucus, Bradley, Brand, Colberg, Cotton, Hager, Healy, Huennekens, Kendall, Lien, Lombardi, McKittrick, Marbut, Mercer, Murphy, Norman, Tierney, Towe, Zimmer. Total 22.

Excused: Lundgren. Total 1.

Absent or not voting: Brown, Edland, Ellerd, Halvorson, Lockrem, Schye. Total 6.

March 15, 1973

Senate Bill No. 129

JOINT CONFERENCE COMMITTEE REPORT

To the President of the Senate and the Speaker of the House:

We, your Joint Senate and House Conference Committee on Senate Bill No. 129, third reading, blue copy bill, beg leave to report as follows:

That we met this day and considered Senate Bill No. 129, third reading, blue copy bill, and recommend as follows:

That Senate Bill No. 129, third reading, blue copy bill, be amended on page 1, lines 20 and 21, after "exceed" and before "the" by striking the material sixty six and two-thirds percent (66 2/3 %) and inserting in lieu thereof the following material: one hundred ten dollars (\$110) beginning July 1, 1973. Beginning July 1, 1974, the maximum weekly compensation benefits shall not exceed

And that Senate Bill No. 129, as so amended, be concurred in.

FOR THE HOUSE:

BAETH
BAUCUS
TURMAN

FOR THE SENATE:

McKEON
GOODHEART

Baeth moved for adoption of the Conference Committee report and that the Committee be dissolved.

As a substitute motion, East moved that the Conference Committee report be not adopted and that the committee be dissolved and that the Speaker appoint a new Conference Committee.

The substitute motion failed by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Barrett, Bell, Brown, Burnett, Campbell, Castles, East, Ellerd, Forsgren, Galt, Glennen, Hager, Halvorson, Holtz, Hubing, Jones, Kessner, Kolstad, Kvaalen, Lockrem, Lund, Marks, Mercer, Nichols, Olson, Rolfe, Schye, Seifert, Selstad, Smith, Turner, Ulmer, Walborn. Total 36.

Noes: Baeth, Bardanouve, Baucus, Bennetts, Bradley, Brand, Clemow, Colberg, Cotton, Cox, Driscoll, Edland, Fagg, Fasbender, Fleming, Flynn, Greely, Gunderson, Hageman, Hall, H. Harper, R. Harper, Healy, Hodges, Holmes, Huennekens, Jacobsen, Johnston, Kendall, Kimble, Kosena, Laas, Lee, Lien, Lombardi, Lynch, McKittrick, Manuel, Marbut, Mehrens, Menahan, Murphy, Norman, Quilici, Regan, Roberts, Schepens, Shelden, Staigmillier, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Watt, Yardley, Zimmer, Mr. Speaker. Total 59.

Excused: Lundgren. Total 1.

Absent or not voting: Haines, Lucas, Prevost, Warfield. Total 4.

Thereupon, the Conference Committee report was adopted by the following vote:

Ayes: Aageson, Baeth, Bardanouve, Baucus, Bennetts, Bradley, Brand, Brown, Campbell, Clemow, Colberg, Cotton, Cox, Driscoll, Edland, Fagg, Fasbender, Fleming, Flynn, Forsgren, Greely, Gunderson, Hageman, Hall, H. Harper, R. Harper, Healy, Hodges, Holmes, Huennekens, Jacobsen, Johnston, Kendall, Kimble, Kolstad, Kosena, Laas, Lee, Lien, Lombardi, Lucas, Lund, Lynch, McKittrick, Manuel, Marbut, Mehrens, Menahan, Murphy, Nichols, Norman, Quilici, Regan, Roberts, Schepens, Shelden, Staigmillier, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Ulmer, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 69.

Noes: Ainsworth, Asbjornson, Barrett, Bell, Castles, Galt, Glennen, Hager, Holtz, Hubing, Jones, Kessner, Kvaalen, Lockrem, Marks, Mercer, Olson, Rolfe, Seifert, Selstad, Smith, Walborn. Total 22.

Excused: Lundgren. Total 1.

Absent or not voting: Burnett, East, Ellerd, Haines, Halvorson, Prevost, Schye, Turner. Total 8.

March 16, 1973

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day adopted the Joint Conference Committee Reports to the following Senate Bills and the committees have been dissolved.

Senate Bill No. 23

Senate Bill No. 129

Senate Bill No. 447

Senate Bill No. 300

Respectfully,

ED SMITH
Chief Clerk

MOTIONS AND RESOLUTIONS

Senator Harrison moved that the Conference Committee Report on Senate Amendments to House Bill No. 463 be taken from Second Reading and the committee be dissolved and the President be authorized to appoint a new Conference Committee of three to meet with a like committee from the House to confer on Senate Amendments to House Bill No. 463.

The President moved the foregoing motion was properly before the Senate.

Thereupon, Senator Harrison's motion carried and the President appointed the following committee:

Senator McNamer, Chairman
Senator Bennett
Senator Boylan

Senator Moore moved that the Conference Committee Report on House Amendments to Senate Bill No. 129 be taken from Second Reading and be rereferred to the Committee on Rules. Motion carried.

Upon motion of Senator Lynch, duly carried, that the Rules Committee ruled that the following bills are properly before this Body and may be considered on Second Reading this Legislative Day:

Senate Bills Nos. 467 and 468, House Bills Nos. 477, 466, 166, 254, 509, House Amendments to Senate Bills Nos. 40, 51, 183, 254, 454, Conference Committee Reports on House Amendments to Senate Bills Nos. 383 and 23, Free Conference Committee Report on Senate Bills Nos. 383 and 23, Conference Committee Reports on Senate Amendments to House Bills Nos. 368, 220, 357, Free Conference Committee Report on House Bill No. 211 and House Amendments to Senate Bill No. 300.

INTRODUCTION OF SENATE BILLS

The following Senate Bill was introduced, posted and referred:

Senate Bill No. 475, introduced by Thiessen: A bill for an act entitled: "An act to create a county salary review committee to set the compensation of all county officers; repealing Sections 16-912, 25-603, 25-608, 25-609, 25-610, 25-611, and 25-611.1, R.C.M. 1947." Referred to Committee on Rules.

INTRODUCTION OF HOUSE BILLS

The following House Bill was introduced, posted and referred:

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FORTY-THIRD LEGISLATIVE ASSEMBLY

Senate resumed. President Christiansen presiding.

The Committee of the Whole submitted the following report:

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

That Senate Bill No. 470 be amended on page 1, Section 1, line 20, by striking the words, figures and underlining "thirty (30)" and inserting in lieu thereof the words and figures "twenty-seven (27)";

And further amend on page 1, Section 1, line 23, after the stricken words and figures "[twenty-two (22)]" by striking the words, figures, and underlining twenty-seven (27) and inserting in lieu thereof the words and figures "twenty-five (25)"

And as so amended, do pass. Unanimously passed.

That the Conference Committee Report on House Amendments to Senate Bill No. 383 be concurred in. Opposed by Boylan, Breeden, Mathers, McDonald, Moore, Rosell, Story, Thiessen.

That House Bill No. 477 be concurred in. Opposed by Aber, Bertsche, Boylan, Breeden, DeWolfe, Groff, James, Mathers, McCallum, McGowan, McOmber, Moritz, Rosell, Siderius, Sorenson, Thiessen.

That House Bill No. 509 be concurred in. Opposed by Klindt, Cochrane, Rosell.

That House Bill No. 166 be placed at the bottom of the Second Reading list.

Committee arose at 4:02 p.m.

Committee resumed at 4:30 p.m.

That House Amendments to Senate Bill No. 40 be concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 51 be concurred in. Unanimously concurred in.

That consideration of House Amendments to Senate Bill No. 183 be passed. Unanimously passed.

That House Amendments to Senate Bill No. 254 be not concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 454 be concurred in. Unanimously concurred in.

That the Conference Committee Report on House Amendments to Senate Bill No. 23 be concurred in. Unanimously concurred in.

That the Free Conference Committee Report on Senate Bill No. 124 be concurred in. Opposed by Aber, Boylan, Breeden, Hazelbaker, Mathers, McGowan, Moore, Moritz, Rosell, Story.

That the Conference Committee Report on Senate Amendments to House Bill No. 368 be concurred in. Unanimously concurred in.

That the Conference Committee Report on Senate Amendments to House Bill No. 357 be concurred in. Unanimously concurred in.

That the Free Conference Committee Report on House Bill No. 211 be not concurred in. Opposed by Bennett, Broeder, Cochrane, Darrow,

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committee from the House to confer on Senate Amendments to House Bill No. 220.

The President appointed the following:

Senator James, Chairman

Senator Boylan

Senator Klindt

Upon motion of Senator Lynch, duly carried, that Rule 6-20 of the 43rd Legislative Session be suspended in order that the following bills be considered on Third Reading this Legislative day.

Senate Bills Nos. 467, 468, 470, Conference Committee on House Amendments to Senate Bill No. 383, House Bills Nos. 254 and 509, House Amendments to Senate Bills Nos. 40, 51, 454, Conference Committee Report on House Amendments to Senate Bills Nos. 23 and 300, Conference Committee Report on Senate Amendments to House Bills Nos. 368 and 357, and Free Conference Committee Report on Senate Bills Nos. 124 and 431.

Upon motion of Senator Turnage, duly carried, that Senate Bill No. 183 be taken from Second Reading and returned to the House for correction in the history.

THIRD READING OF BILLS

Senate Bill No. 467, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 47.

Noes: None.

Absent and not voting: Jensen. Total 1.

Excused: Drake, Keenan. Total 2.

Senate Bill No. 468, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 48.

Noes: None.

Absent and not voting: None.

Excused: Drake, Keenan. Total 2.

Senate Bill No. 470, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McDonald, McGowan, McKeon, McNamer, Mc-

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Noes: Goodheart, Mathers, McGowan, Story. Total 4.

Absent and not voting: Moritz, Nees. Total 2.

Excused: Drake, Keenan: Total 2.

House Amendments to Senate Bill No. 51, having been read three several times, were concurred in by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 48.

Noes: None.

Absent and not voting: None.

Excused: Drake, Keenan. Total 2.

House Amendments to Senate Bill No. 454, having been read three several times, were concurred in by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 48.

Noes: None.

Absent and not voting: None.

Excused: Drake, Keenan. Total 2.

The Conference Committee Report on House Amendments to Senate Bill No. 23, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 48.

Noes: None.

Absent and not voting: None.

Excused: Drake, Keenan. Total 2.

The Free Conference Committee Report on Senate Bill No. 124, having been read three several times, was concurred in by the following roll call vote:

Ayes: Bennett, Bertsche, Bollinger, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Jensen, Lowe, Lynch, Manning, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Nees, Northey, Shea, Siderius, Sorenson, Thiessen, Vainio, Zody. Total 33.

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that House Bill No. 254, introduced by Watt, Halvorson, et al, was this day read three several times and concurred in, title and history agreed to, and the bill is herewith returned to the House.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that House Bill No. 509, introduced by Fasbender, et al, was this day read three several times and concurred in, as amended, title and history agreed to, and the bill is herewith returned to the House for concurrence in Senate amendments.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that Senate Bill No. 183 is being returned to the House for reason of a correction in the history.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Senate Bills were this day read three several times and passed, title and history agreed to, and the bills are herewith transmitted to the House for concurrence.

Senate Bill No. 467, introduced by Groff & Lynch

Senate Bill No. 468, introduced by Zody.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Joint Conference Committees on the House amendments to the following Senate Bills were this day adopted and the committees were dissolved.

Conference Committee on Senate Bill No. 23

Conference Committee on Senate Bill No. 300

Free Conference Committee on Senate Bill No. 383

Conference Committee on Senate Bill No. 431.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Free Joint Conference Committee Report on House Bill No. 368 was this day adopted and the committee has been dissolved.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Joint Conference Committee on House Bill No. 357 was this day adopted and the committee has been dissolved.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Joint Conference Committee Report was not adopted this day and the President was authorized to appoint a new Conference Committee of three to confer with a like committee from the House on Senate amendments to House Bill No. 220.

The President appointed the following members:

Senator James, Chairman
Senator Boylan
Senator Flynn

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Joint Conference Committee report on House Bill No. 211 was this day rejected, and the President was authorized to appoint a new Conference Committee of three to confer with a like committee from the House on said bill.

The President appointed the following members:

Senator Bertsche, Chairman
Senator Bollinger
Senator Himsel

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 17, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate this day authorized the President to appoint a New Conference Com-

MOTIONS AND RESOLUTIONS

Upon motion of Senator Lynch that the President be authorized to appoint a Conference Committee of three to meet with a like committee from the House to confer on Senate Bill No. 470. Motion carried.

The President appointed the following:

Senator Moore, Chairman
Senator Vainio
Senator McOmber

INTRODUCTION OF HOUSE BILLS

The following House Bill was introduced, posted and referred:

House Bill No. 522, introduced by Gerke, Johnston, Swanberg, Ainsworth, Olson: A Bill for an Act Entitled: "An act relating to the financing of the long-range building program, by the issuance of bonds payable from special taxes appropriated therefor and further supported by the pledge of the full faith and credit of the state; amending sections 79-2201 through 79-2205, R.C.M." Referred to Committee on Finance and Claims.

BUSINESS ON SECOND READING

Upon motion of Senator Lynch, duly carried, the Senate resolved itself into a Committee of the Whole for the consideration of Business on Second Reading.

Senator Zody in the Chair. Committee arose.

Senate resumed. President Christiansen presiding.

The Committee of the Whole submitted the following report:

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

That Senate Bill No. 339 do pass. Unanimously passed.

That the Committee rise and report.

ZODY, Chairman

Upon motion of Senator Zody, duly carried, the foregoing report of the Committee of the Whole was adopted.

Upon motion of Senator Lynch, duly carried, the Senate recessed subject to the Call of the Chair.

Senate reconvened.

Mr. President: We, your Committee on Enrolled Bills, to whom were referred: Senate Bills Nos. 23, 28, 124, 183, 300 and 383 beg leave to report the same back correctly enrolled and duly verified.

DeWOLFE, Chairman

Report adopted.

I have examined Senate Bill No. 23 introduced by me and find the same to be correct.

MOORE

I have examined Senate Bill No. 28 introduced by me and find the same to be correct.

LYNCH

I have examined Senate Bill No. 124 introduced by me and find the same to be correct.

SIDERIUS

I have examined Senate Bill No. 183 introduced by me and find the same to be correct.

BENNETT

I have examined Senate Bill No. 300 introduced by me and find the same to be correct.

JAMES

I have examined Senate Bill No. 383 introduced by me and find the same to be correct.

LYNCH

The President signed the following Senate Bills in open session, the titles having first been read:

Senate Bills Nos. 23, 28, 124, 183, 300, 383.

REPORTS OF STANDING COMMITTEES

The following committees submitted the following committee reports:

Mr. President: We, your Committee on Engrossed Bills, to whom was referred Senate Bill No. 339 beg leave to report same back considered correctly engrossed.

DeWOLFE, Chairman

Report adopted.

Mr. President: We, your Committee on Finance and Claims, having had under consideration House Bill No. 522 respectfully report as follows: That House Bill No. 522 be concurred in.

THIESSEN, Vice-Chairman

Report adopted.

Mr. President: We, your Committee on Finance and Claims, having had under consideration House Bill No. 588 respectfully report as follows: That House Bill No. 588 be not concurred in.

THIESSEN, Vice-Chairman

Thereupon, the report was adopted by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Breeden, Broeder, Carl, Cochran, Devine, Flynn, Gilfeather, Graham, Hall, Harrison, Hazelbaker, Himsl, Jensen, Keenan, Lowe, Mathers, McCallum, McDonald, McKeon, McOmber, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Zody. Total 34.

Noes: Deschamps, DeWolfe, Lynch, McNamer, Moore. Total 5.

Absent and not voting: Boylan, Darrow, James, Klindt, McGowan, Vainio. Total 6.

Excused: Drake, Goodheart, Groff, Manning, Turnage. Total 5.

BUSINESS ON SECOND READING

Upon motion of Senator Lynch, duly carried, the Senate resolved itself into a Committee of the Whole for the consideration of Business on Second Reading.

Senator Zody in the Chair. Committee arose.

Senate resumed. President Christiansen presiding.

10th Leg. Day - 3/22/73

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SENATE JOURNAL—SPECIAL SESSION
FORTY-THIRD LEGISLATIVE ASSEMBLY

The President signed the following House Bills in open session, the titles having first been read:

House Bills Nos. 15, 97, 357, 509, 575, and 611.

REPORTS OF STANDING COMMITTEES

The following committees submitted the following committee reports:

Mr. President: We, your Committee on Bills, to whom were referred Senate Bills Nos. 23, 28, 124, 183, 300, 383 and 363, do hereby report that said bills, together with a copy thereof, signed by the Speaker of the House and President of the Senate, were this day, at the hour of 10:00 o'clock, A.M., delivered to the Governor for his approval.

DeWOLFE, Chairman

Report adopted.

Mr. President: We, your Committee on Printing, to whom was referred Senate Bill No. 459, beg leave to report the same has this date been returned from the Printer correctly printed.

DeWOLFE, Chairman

Report adopted.

At the request of the President, and without objection, the following committee was granted seven additional legislative days to consider the following bills:

RULES: Senate Bill No. 473 and Senate Resolution No. 38.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The following communications from the House were received and read:

March 21, 1973

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day did accede to the request of the Senate and the Speaker was authorized to appoint a Conference Committee of three to meet on House Amendments to Senate Bill No. 470.

The Speaker appointed the following members:

Representative Swanberg, Chairman

Representative Watt

Representative Ulmer

Respectfully,

ED SMITH
Chief Clerk

March 21, 1973

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the following Joint Conference Committee Reports were this day adopted on roll call vote and the committees were dissolved.

Conference Committee on Senate Bill No. 254

Conference Committee on House Bill No. 211

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HOUSE JOURNAL—SPECIAL SESSION
FORTY-THIRD LEGISLATIVE ASSEMBLY

March 22, 1973

Mr. Speaker: We, your Committee on Bills, beg leave to report the following bills correctly enrolled: House Bills Nos. 56, 509, 55, 211, 220 and House Resolutions Nos. 31 and 36.

QUILICI, Chairman

I have examined House Bill No. 575 introduced by me and find the same to be correct.

BARDANOUVE

The Speaker signed in open session the following bills: House Bill No. 575 and Senate Bills Nos. 23, 28, 124, 183, 300, 383.

MESSAGES FROM THE GOVERNOR

March 21, 1973

Honorable Harold Gerke
Speaker of the House of Representatives
Capitol
Helena, Montana

Dear Mr. Speaker:

I have the honor to inform you that I have this day approved the following measures:

House Bills Nos.: 16, 23, 50, 78, 108, 112, 118, 128, 135, 146, 256, 260, 283, 304, 338, 394, 396, 406, 441, 442, 456, 480, 534, and 573.

House Joint Resolution No. 18.

Sincerely,

THOMAS L. JUDGE
Governor

cc: Honorable Bill Christiansen

MESSAGES FROM THE SENATE

March 21, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that House Bill No. 588 was this day recommended by Committee Report that the bill be not concurred in, report adopted on roll call, and the bill is herewith returned to the House.

Respectfully,

JOHN N. HANSON
Secretary of the Senate

March 21, 1973

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Conference Committee Reports were this day adopted on roll call and the committees have been dissolved.

Free Conference Committee Report on House Bill No. 78

Conference Committee Report on House Bill No. 350

Respectfully,

JOHN N. HANSON
Secretary of the Senate

MOTIONS AND RESOLUTIONS

Ulmer moved that Senate Bill No. 413 be retained on Third Reading until such time as there is a printed copy on the desks.

Motion carried.

REPORTS OF STANDING COMMITTEES

March 21, 1973

Mr. Speaker: We, your Committee on Finance and Claims, having had under consideration Senate Bill No. 197, respectfully report as follows: That Senate Bill No. 197 be amended in the Senate Third Reading Bill as follows:

Amend on page 3, Section 5, line 6 by striking the figures "[27,927,000 29,543,000]" and inserting in lieu thereof the figures "30,059,000 32,866,000";

Further amend on page 3, Section 5, line 10 by striking the figures "[19,390,000 21,110,000]" and inserting in lieu thereof the words "(all funds available)";

And as amended, be concurred in.

(Material in brackets denotes cancelled type.)

BARDANOUVE, Chairman

Report adopted.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Hall moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading. Motion carried.

Hall to the Chair.

Committee arose.

Mr. Speaker in the Chair.

Mr. Speaker:

We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Senate Amendments to House Bill No. 465 be concurred in (84-0).

That the Committee rise and report and beg leave to sit again.

HALL, Chairman

Report adopted.

REPORTS OF STANDING COMMITTEES

March 21, 1973

Mr. Speaker: We, your Committee on Finance and Claims, having had under consideration Senate Bill No. 352, respectfully report as follows: That Senate Bill No. 352 be amended on page 1, line 4 following the number "12-329" by inserting the punctuation and number "12-332.1".

Amend on page 1, line 9 by striking the words "[confirm powers of the Montana Supreme Court]" and inserting in lieu therefore the words "authorize the Legislative Council";

Amend the title page 1, line 11 following the word and punctuation "duties;" by striking the words "[to make an appropriation]" and inserting the following words and punctuation "to amend Section 12-332.1 to vest in

the Flesher Report, the Durham Report, the Regents' Master Plan and various studies by the legislative council.

Section 6. A written report with substantive recommendations adopted by the commission, and recommendations regarding implementing legislation, shall be made available to the governor, the members of the legislature, and the members of the state board of education no later than December 1, 1974.

Section 7. Three hundred thousand dollars (\$300,000) is appropriated from the general fund to the commission for the biennium ending June 30, 1975, for conducting the study and planning authorized by this act.

Section 8. All federal and private funds received for the purposes of this act are appropriated from the federal and private revenue fund to the commission for the biennium ending June 30, 1975.

Section 9. The funds appropriated by section 6 may be used to match any federal or private funds available for conducting the study and planning authorized by this act. However, an amount from the funds appropriated under section 7, equal to the amount received in federal and private funds, shall revert to the general fund, and may not be expended by the commission.

Section 10. On behalf of and for the commission, the governor shall make application for any federal funds available for the study and planning authorized by this act, and he may enter into any contracts required for receipt of federal funds with the appropriate federal agency.

Approved: March 27, 1973.

CHAPTER NO. 491

An Act Providing for the Minimum Number of Justices of the Peace, their Compensation, Qualifications, Terms of Office, Training and Designation as County Officers; Providing for the Collection of Fees by Justices and Improvement of their Facilities; Abolishing Fees in Criminal Actions; and Deleting References to Townships; all to Comply with Article VII, Sections 5 and 7 of the 1972 Montana Constitution; Amending Sections 11-727, 16-2403, 16-2404, 16-2406, 25-307, 93-401 through 93-403, 93-405, 93-704, 93-1602, 93-6601, 93-6602, 93-6706, 93-6903, 93-7302, 93-7311, 93-7402, 93-7605, 93-7607, 93-7704, 93-7709, 93-9705, R.C.M. 1947; and Repealing Sections 25-303, 25-305 and 25-306, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The board of county commissioners shall set salaries for justices of the peace by resolution, provided that:

(1) if the salary of the justice of the peace was determined on a fee basis for the years 1971 and 1972, he shall receive a monthly salary of not less than one-eighteenth of the total fees, civil and criminal, collected by the justice or his predecessor in office during the two (2) years, 1971 and 1972;

(2) if the salary of the justice of the peace was determined on a non-fee basis for the years 1971 and 1972, the justice shall be paid not less than the highest salary earned by the justice or his predecessor for the years 1971 and 1972.

Section 2. In the resolution providing for the salary the county commissioners shall designate the office hours for each justice. Office hours shall be commensurate with the salary provided.

Section 3. (1) The board of county commissioners of the county in which the justice of the peace has been elected or appointed shall provide for the justices of the peace:

(a) the office, courtroom and clerical assistance necessary to enable him to perform his duties in dignified surroundings;

(b) the books, records, forms, papers, stationery, postage, office equipment and supplies necessary in the proper keeping of the records and files of the judicial office and the transaction of the business;

(c) the latest edition of the Revised Codes of Montana and all official supplements thereto.

(2) All actual and necessary expenses incurred by the justice of the peace in the performance of his official duties is a legal charge against the county.

Section 4. Section 93-401, R.C.M. 1947, is amended to read as follows:

"93-401. **Justices' courts and justices.** (1) There must be at least *one (1) justice court* in each county of the state, for which *one (1) justice* of the peace must be elected by the qualified electors of the *county* at the general state election next preceding the expiration of the term of office of his predecessor.

(2) *A justice of the peace shall be nominated and elected on the non-partisan judicial ballot in the same manner as are judges of the district court. Each judicial office shall be a separate and*

independent office for election purposes and each office shall be numbered by the county commissioners and each candidate for justice of the peace shall specify the number of the office for which he seeks to be elected. A candidate may not file for more than one (1) office. Section 23-4511 prohibiting political party endorsement for judicial officers shall also apply to justices of the peace.

(3) Each justice of the peace, elected or appointed, after he has received his certificate of election or appointment, shall, before entering upon the duties of his office take the constitutional oath of office, which must be filed with the county clerk.

(4) Before the county clerk may file the oath the elected or appointed justice must satisfy the clerk that he is either:

(a) an attorney at law authorized to practice law in the state of Montana, or

(b) a person who has held the office of justice of the peace within the preceding five (5) years, or

(c) a person who has completed the orientation course of study held under the direction of the Montana Magistrates Association of the state of Montana; or if a person is appointed after the course is offered he must agree to take the course at the next offering and failure to do so will disqualify him.

(5) The Montana Magistrates Association shall present a course of study within four (4) weeks following each general election. Mileage and per diem shall be paid the elected or appointed justice of the peace for attending the course and shall be a proper charge against the county wherein the justice of the peace will hold court."

Section 5. Section 11-727, R.C.M. 1947, is amended to read as follows:

"11-727. Compensation of justices of the peace acting as police judge. In towns, the council may designate a justice of the peace of the *county* in which the town is situated to act as police judge, and may by ordinance fix his compensation for his services, not exceeding one hundred dollars per annum, and the justices of the peace so designated must act as a police judge in all cases arising out of a violation of ordinances where the town is a party."

Section 6. Section 93-402, R.C.M. 1947, is amended to read as follows:

"93-402. Courts — where held — when open for business. A justice's court may be held at any place selected by the justice holding the same, in the *county* for which he is elected or appointed; and such court is always open for the transaction of business, except on legal holidays and non-judicial days"

Section 7. Section 93-403, R.C.M. 1947, is amended to read as follows:

"93-403. **Holding court for another justice within county.** A justice of the peace of any *county* may hold the court of any other justice of the peace of the same county at his request, and while so acting is vested with the power of the justice for whom he so holds court, in which case the proper entry of the proceedings before the attending justice, subscribed by him, must be made in the docket of the justice for whom he so holds the court."

Section 8. Section 93-405, R.C.M. 1947, is amended to read as follows:

"93-405. **Terms of office.** The term of office of justices of peace is *four* (4) years from the first Monday in January next succeeding their election."

Section 9. Section 25-307, R.C.M. 1947, is amended to read as follows:

"25-307. **Collection and disposition of fees — itemized statement.** Justices of the peace shall collect the fees prescribed by law for justices of the peace and shall pay the same into the county treasury of the county wherein they hold office, on the first day of each month, to be credited to the contingent fund of *the* county; and shall also file an itemized statement showing all fees received during the preceding month in connection with his office; said statement shall also state that all fees required by law to be paid in connection with matters pending before him as a justice during the preceding month have been paid to him, and by him paid into the county treasury, and listed in said itemized statement, and that he has not received or been promised, nor has any one else received or been promised for him, any other moneys, emolument, or thing whatsoever by virtue of or in connection with his office; and said statement shall be subscribed and sworn to by the justice. This section, however, shall not apply to "miscellaneous fees" excepted by section 25-304, *supra*."

Section 10. Section 16-2404, R.C.M. 1947, is amended to read as follows:

"16-2404. **Township officers.** The officers of townships are two constables, and such other inferior and subordinate officers as are provided for elsewhere in this code, or by the board of county commissioners."

Section 11. Section 16-2403, R.C.M. 1947, is amended to read as follows:

"16-2403. **County officers enumerated.** The officers of a county are:

A treasurer;

A county clerk;

A clerk of the district court;

A sheriff;

A county auditor, except in the sixth, seventh, and eighth class counties;

A county attorney;

A surveyor;

A coroner;

A public administrator;

An assessor;

A county superintendent of common schools;

A board of county commissioners;

At least one (1) justice of the peace."

Section 12. Section 16-2406, R.C.M. 1947, is amended to read as follows:

"16-2406. **County and other officers, when elected and term of office.** There shall be elected in each county the following county officers who shall possess the qualifications for suffrage prescribed by the constitution of the state of Montana, and such other qualifications as may be prescribed by law:

One county clerk who shall be clerk of the board of county commissioners and ex officio recorder; one sheriff; one treasurer, who shall be collector of the taxes; provided, that the county treasurer shall not be eligible to his office for the succeeding term; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator; *and at least one (1) justice of the peace.* Persons elected to the different offices named in this section shall hold their respective offices for the term of four (4) years, and until their successors are elected and qualified.

The county attorneys, county auditors, and all elective township officers, must be elected at each general election as now provided by law. The officers mentioned in this act must take office on the first Monday of January next succeeding their election, except the county treasurer, whose term begins on the first Monday of March next succeeding his election.

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Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election; provided, however, that the board of county commissioners of any county may, in its discretion, consolidate any two or more of the within named offices and combine the powers and the duties of the said offices consolidated *with the exception of the office of the justice of the peace, which office may not be combined or consolidated with any other office other than another justice of the peace office*; however, the provisions hereof shall not be construed as allowing one (1) office incumbent to be entitled to the salaries and emoluments of two (2) or more offices; provided, further, that in consolidating county offices, the board of county commissioners shall, six (6) months prior to the general election held for the purpose of electing the aforesaid officers, make and enter an order, combining any two (2) or more of the within named offices, and shall cause the said order to be published in a newspaper, published and circulated generally in said county, for a period of six (6) weeks next following the date of entry of said order."

Section 13. Section 93-704, R.C.M. 1947, is amended to read as follows:

"93-704. **Residence and qualifications of justices of the peace.** Every justice of the peace must reside in the *county* in which his court is held, and no person is eligible to the office of justice of the peace unless he shall have been a citizen of the United States and a resident of the county, in which he is to serve, for one year next preceding his election or appointment."

Section 14. Section 93-1602, R.C.M. 1947, is amended to read as follows:

"93-1602. **How to be summoned.** Such jurors must be summoned from the persons competent to serve as jurors, residents of the *county*, city, or town in which such court has jurisdiction, by notifying them orally that they are summoned, and of the time and place at which their attendance is required."

Section 15. Section 93-6601, R.C.M. 1947, is amended to read as follows:

"93-6601. **Where actions must be commenced.** Actions in justices' courts may be commenced, and, subject to the right to change the place of trial, as in this chapter provided, may be tried:

1. When the defendant, or all the defendants, if there be more than one, reside in another county than that in which the

right of action accrues, and the action be for the recovery of personal property, or the value thereof, or damages for taking or detaining the same; in the county in which the property, or any part thereof, may be found, or in which the property, or any part thereof, was taken, or in which the defendant or either of the defendants reside;

2. When the defendant, or all of the defendants, if there be more than one, reside in another county than that in which the right of action accrues, and the action be for damages for violation of an express or implied contract, or for money due on an express or implied contract, debt, note, or account; in the county in which such contract or obligation is to be or was to have been performed, or such money is to be or was to have been paid, or in which the defendant or either of the defendants resides; and the county in which the obligation is incurred shall be deemed to be the county in which it is to be performed or paid, unless there is a special contract to the contrary;

3. When the defendant, or all of the defendants, if there be more than one, reside in another county than that in which the right of action accrues, and the action be for damages for injury to person, property, or reputation; in the county where the injury was committed, or in which the defendant or either of the defendants reside;

4. When the defendant is a nonresident of the county; in any county where he may be found and served with summons personally;

5. When the defendant is a nonresident of the state; in any *county* of the state;

6. When the parties voluntarily appear and plead, without summons; in any *county* of the state;

7. In all other cases; in any county in which the defendant, or any one of the defendants, if there be more than one, reside, or may be found and served with summons personally."

Section 16. Section 93-6602, R.C.M. 1947, is amended to read as follows:

"93-6602. **Place of trial may be changed in certain cases.** The court may, at any time before trial, on motion, change the place of trial in the following cases:

1. When it appears to the satisfaction of the justice before whom the action is pending, by affidavit of either party, that such justice is a material witness for either party.

2. When either party makes and files an affidavit that he cannot have a fair and impartial trial before such justice, by reason of the interest, prejudice, or bias of the justice.

3. When a jury has been demanded, and either party makes and files an affidavit that he cannot have a fair and impartial trial, on account of the bias or prejudice of the citizens of the *county*, town, or city against him.

4. When, from any cause, the justice is disqualified from acting.

5. When the justice is sick or unable to act."

Section 17. Section 93-6706, R.C.M. 1947, is amended to read as follows:

"93-6706. **Summons — how issued, directed and what to contain.** The summons must be directed to the defendant and signed by the justice, and must contain:

1. The title of the court, the name of the county and city in which the action is commenced, and the names of the parties thereto;

2. A sufficient statement of the cause of action, in general terms, to apprise the defendant of the nature of the claim against him, but a copy of the complaint in the action when served with the copy of the summons upon defendant in lieu of said statement, is sufficient;

3. A direction that the defendant appear and answer before the justice, at his office, as specified in the next section. And that if he fail to appear and answer, judgment will be taken against him according to the complaint."

Section 18. Section 93-6903, R.C.M. 1947, is amended to read as follows:

"93-6903. **A defendant arrested must be taken before the justice immediately.** The defendant, immediately upon being arrested, must be taken to the office of the justice who made the order, and if he is absent or unable to try the action, or if it appears to him by the affidavit of defendant that he is a material witness in the action, the officer must immediately take the defendant before another justice of the *county*, if there is another, and if not, then before a justice of an adjoining *county*, who must take jurisdiction of the action, and proceed thereon as if the summons had been issued and the order of arrest made by him."

Section 19. Section 93-7302, R.C.M. 1947, is amended to read as follows:

"93-7302. Judgment of dismissal entered in certain cases without prejudice. Judgment that the action be dismissed without prejudice to a new action, may be entered with costs in the following cases:

1. When the plaintiff voluntarily dismisses the action, at or before the close of his evidence, when there is no counterclaim.

2. When he fails to appear at any time within five days after default has been entered, or at the time to which the action has been postponed.

3. When, after a demurrer to the complaint has been sustained, the plaintiff fails to amend it within the time allowed by the court.

4. When it is objected at the trial, and appears by the evidence, that the action is brought in the wrong county; but if the objection is taken and overruled, it is the cause of a reversal on appeal, and does not otherwise invalidate the judgment; if not taken at the trial, it is waived."

Section 20. Section 93-7311, R.C.M. 1947, is amended to read as follows:

"93-7311. Abstract of judgment. The justice, on the demand of a party in whose favor judgment is rendered, must give him an abstract of the judgment in substantially the following form (filling blanks according to the facts):

"State of Montana

County of

....., plaintiff, v., defendant.

In justice's court, before, justice of the peace, county,, 19.... (inserting date of abstract). Judgment entered for plaintiff (or defendant) for \$....., on the day of I certify that the foregoing is a correct abstract of a judgment rendered in said action in my court, or (as the case may be) in the court of, justice of the peace, as it appears by his docket, now in my possession, as his successor in office.

....., Justice of the Peace."

Section 21. Section 93-7402, R.C.M. 1947, is amended to read as follows:

"93-7402. Form of execution. The execution must be directed to the sheriff or to a constable of the county, and must be subscribed by the justice and bear date the day of its issuance. It must intelligibly refer to the judgment, by stating the names of the

parties, and the name of the justice before whom, and of the county where, and the time when, it was rendered; the amount of the judgment, if it be for money; and if less than the whole is due, the true amount due thereon. It must contain, in like cases, similar directions to the sheriff or constable as are required by the provisions of sections 93-5801 to 93-5845, in an execution to the sheriff, except that it shall not direct the officer to in any manner levy upon or satisfy the judgment, or any interest thereon, from any real property."

Section 22. Section 93-7605, R.C.M. 1947, is amended to read as follows:

"93-7605. **Proceedings when office becomes vacant and before a successor is appointed.** If the office of a justice become vacant by his death or removal from the *county*, or otherwise, before his successor is elected and qualified, the docket and papers in possession of such justice must be deposited in the office of some other justice in the *county*, to be by him delivered to the successor of such justice. If there is no other justice in the *county*, then the docket and papers of such justice must be deposited in the office of the county clerk, to be by him delivered to the successor in office of the justice."

Section 23. Section 93-7607, R.C.M. 1947, is amended to read as follows:

"93-7607. **Justice elected to fill vacancy.** The justice elected to fill a vacancy is the successor of the justice whose office became vacant before the expiration of a full term. When a full term expires, the same or another person elected to take office in the same *county* from that time is the successor."

Section 24. Section 93-7704, R.C.M. 1947, is amended to read as follows:

"93-7704. **In case of disability of justice, another justice may attend on his behalf.** In case of the sickness or other disability, or necessary absence of a justice, on a return of a summons, or at the time appointed for a trial, another justice of the same *county*, or adjoining *county* may, at his request, attend in his behalf, and thereupon is vested with the power, for the time being, of the justice before whom the summons was returnable. In that case, the proper entry of the proceedings before the attending justice, subscribed by him, must be made in the docket of the justice before whom the summons was returnable. If the case is adjourned, the justice before whom the summons was returnable may resume jurisdiction."

Section 25. Section 93-7709, R.C.M. 1947, is amended to read as follows:

"93-7709. **Special constables—appointment.** If in any township there should be no duly elected, appointed, or qualified constable, but not otherwise, a justice of the peace in *the county* may, at the request of a party, after being satisfied that it is expedient to do so, specially depute any proper person of suitable age not interested in the action to serve a summons, with or without an order to arrest the defendant, or with or without a writ of attachment, or to serve an execution. The justice shall be liable upon his official bond for all official acts of the person so deputed. Such deputation shall be in writing made on the process, and a note thereof made on the justice's docket."

Section 26. Section 93-9705, R.C.M. 1947, is amended to read as follows:

"93-9705. **What courts have jurisdiction.** The district court of the county in which the property, or some part of it, is situated, shall have jurisdiction of proceedings under this chapter; provided, that justices' courts, within their respective *counties*, shall have concurrent jurisdiction."

Section 27. Sections 25-303, 25-305, and 25-306, R.C.M. 1947, are repealed.

Approved: March 29, 1973.

CHAPTER NO. 492

An Act Providing for Exempted Employments from Coverage Under the Workmen's Compensation Act; and Repealing Section 92-202, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-202.1, R.C.M. 1947, which reads as follows:

92-202.1 **Employments exempted from coverage.** This act shall not apply to any of the following employments unless the employer elects coverage under this act:

- (1) Household employment.
- (2) Casual employment.
- (3) Employment of members of an employer's family dwelling in his household.
- (4) Employment of sole proprietors or working members of a partnership.